

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

SOPHIA WILANSKY,

Plaintiff,

vs.

MORTON COUNTY, NORTH DAKOTA;

"JOHN DOE" law enforcement officer)
in his personal capacity; KYLE
KIRCHMEIER; in his personal and
official capacities; PAUL LANEY,
in his personal capacity; and
THOMAS IVERSON, in his personal
capacity,

Defendants.

Civil No.

1:18-CV-00236-CSM

V I D E O T A P E D

V I D E O C O N F E R E N C E

D E P O S I T I O N

OF

SOPHIA WILANSKY

NONCONFIDENTIAL PORTIONS

February 17, 2021

10:03 A.M.

TAKEN AT: East Hampton, NY - Remote

REPORTER: Jesse L. Anders

(PURSUANT TO NOTICE)

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* * * *

1 THE VIDEOGRAPHER: We are now on the record.
2 The time is 10:03 a.m. on February 17, 2021. This
3 begins the video conference proceeding of Sophia
4 Wilansky in the matter of Wilansky versus Morton County,
5 North Dakota; John Doe, et al., filed in the US District
6 Court for the District of North Dakota. Case
7 No. 1:18-CV-00236-CSM. My name is Jeff Burton. I am
8 your remote videographer. Your court reporter is Jesse
9 Anders. We are representing Esquire Deposition
10 Solutions. As a courtesy, will everyone who is not
11 speaking, please mute your audio, and remember to unmute
12 when you're ready to speak. Counsel, will you please
13 introduce yourselves, and the witness will be worn.

14 MR. STOLL: This is Benjamin Stoll from
15 Williams & Connolly on behalf of plaintiff and the
16 witness, Sophia Wilansky.

17 MS. REGAN: And Laurence Regan, the Civil
18 Liberties Defense Center, also with Ms. Wilansky.

19 MR. BAKKE: And this is Randy Bakke on
20 behalf of the Morton County defendants. Jesse, you can
21 go ahead and swear in the witness.

22 THE STENOGRAPHER: Okay. My name is Jesse
23 Anders. I am a Minnesota state notary public. This
24 deposition is being held via Zoom videoconference. The
25 witness and reporter are not in the same room. The

1 witness will be sworn in remotely pursuant to agreement
2 of all parties. I would ask that the parties stipulate
3 that the testimony is being given as if the witness was
4 sworn in person.

5 MR. STOLL: Agreed.

6 MR. BAKKE: Agreed by the defendants.

7 SOPHIA WILANSKY, a witness, called by the
8 Defendants, being first duly sworn, testified on her
9 oath as follows:

10 BY MR BAKKE

DIRECT EXAMINATION

11 Q. Good morning, Ms. Wilansky. I introduced myself
12 to you before the deposition started here today. I'm
13 Randy Bakke. I'm one of the attorneys for the Morton
14 County defendants in, in this lawsuit. First of all,
15 can you tell me where you're physically at today?

16 A. I'm at my house in New York.

17 Q. Okay. And is what address is that?

18 MR. STOLL: Mr. Bakke, I'm happy to provide
19 that to you off the record, but given, like privacy
20 concerns of that something, I'd prefer that that wasn't
21 on the record. Is that something I can provide you
22 later.

23 MR. BAKKE: Well, if she just, we can agree
24 that portion can be sealed. I don't have a problem with
25 that.

1 MR. STOLL: Okay. Assuming that that
2 portion is redacted and sealed, Sophia, you can answer.

3 (Confidential Portions Lines 3 through 6 Redacted.)
4
5
6

7 A. Yes.

8 Q. Okay. And do you reside there by yourself or
9 with others?

10 A. I live with others.

11 Q. Okay. And, and who are the others you lived
12 with?

13 A. My father and his girlfriend.

14 Q. Okay. Have you ever had your deposition taken
15 before?

16 A. No.

17 Q. Have you ever testified in court before?

18 A. No.

19 Q. Just a few ground rules to hopefully allow the
20 deposition to proceed more smoothly here today. First
21 of all, the nature of conversation is such that we tend
22 to talk over each other, but, because the court reporter
23 is taking down everything verbatim, that makes his job
24 very difficult, so please wait to give your answer until
25 I'm finished with my question. I'll try to extent you

1 the same courtesy. I don't won't give you the next
2 question until you're done with the answer. Fair
3 enough?

4 A. Yes.

5 Q. Okay. We, we will take some breaks periodically,
6 but if you need a break for any reason, just let me
7 know, and I'd be happy to accommodate you, and the only
8 thing I would ask, that if there is a question pending,
9 that before we take the break, you answer the question.
10 Okay?

11 A. Yes.

12 Q. Okay. And if I'm unclear with a question or you
13 don't understand my question, can you let me know that.
14 In other words, I only want you to answer questions that
15 you understand.

16 A. Yes.

17 Q. And you understand you're under oath today to
18 tell the truth under penalty of perjury; do you
19 understand that?

20 A. Yes.

21 Q. Okay. I, I want to talk to you about the DAPL
22 protests in North Dakota, and that's a protest that
23 started in the summer of 2016 and then extended into the
24 spring of 2017. If I call it the DAPL protests, will
25 you know what I mean by that?

1 A. Yes.

2 Q. And so when did you first hear about the DAPL
3 protests in North Dakota?

4 A. The day it started.

5 Q. And when was that?

6 A. I believe it was April 1, 2016.

7 Q. And how did you learn about it on April 1, 2016?

8 A. I saw a news article about it.

9 Q. Okay. Do you recall where you saw the, the news
10 article?

11 A. No.

12 Q. And then did you continue to follow the protest
13 activities on media after that?

14 A. Yes.

15 Q. At the time you first learned about the DAPL
16 protests, what were you doing at that time? Were you in
17 school? Were you working?

18 A. I was in school.

19 Q. Okay. At where?

20 A. Williams College.

21 Q. And then did you graduate from there?

22 A. Yes.

23 Q. When was that?

24 A. June of that year.

25 Q. June of 2016?

1 A. Yes.

2 Q. Okay. And when did you first go to the DAPL
3 protests in North Dakota?

4 A. November.

5 Q. November what?

6 A. November 4th, I believe.

7 Q. And, and how did you get there?

8 A. I got a ride.

9 Q. Who did you get a ride from?

10 A. There were a few vehicles going from Pittsburgh.

11 Q. And were these people that you knew before that?

12 A. No. I was invited by one person who I met once
13 or twice.

14 Q. And who was that?

15 A. I don't remember his name.

16 Q. Okay. Where, where was he from?

17 A. I don't know.

18 Q. So the people you got the ride from, from
19 Pittsburgh to North Dakota, did you know any of those
20 people?

21 A. No.

22 Q. Do you know any of their names?

23 A. Yes.

24 Q. And which names do you know?

25 A. Genevieve Wallace.

1 Q. And is, is that someone that you spent time with
2 at the DAPL protests?

3 A. Yes.

4 Q. Okay. And where is Ms. Wallace from?

5 A. I don't know.

6 Q. Do you have her contact information?

7 A. I don't know.

8 Q. Why don't you know if you have her contact
9 information or not?

10 A. I have a lot of people's contact information. I
11 haven't contacted her recently.

12 Q. Well, at one point, did you have her cell number?

13 A. Yes.

14 Q. So you believe you would still have her contact
15 information in your cellphone?

16 A. I believe that I probably have her number in my
17 cellphone.

18 Q. Okay. Other than Ms. Wallace, was there anybody
19 else from the group from Pittsburgh that you knew or
20 have their contact information for?

21 A. Not that I can remember.

22 Q. Why did you decide to go to North Dakota in
23 relation to the DAPL protests?

24 A. I thought that what was happening there was very
25 special, and I wanted to be there.

1 Q. Why did, why did you feel it was special? What
2 was special about it in your mind?

3 A. The fact that so many nations from all over were
4 gathering together and uniting.

5 Q. Well, when you say "so many nations," are you
6 talking about Native American tribes?

7 A. Yes.

8 Q. Was there any other reason that you wanted to go
9 to North Dakota to participate in the DAPL protest other
10 than your view that so many nations were uniting?

11 A. More broadly, the sense of it being a historical
12 moment.

13 Q. In, in what way?

14 A. There was a sense, like a zeitgeist of it being
15 important, culturally.

16 Q. What, what did you do in terms of research to try
17 to understand what the protest was about?

18 A. I wouldn't say I did research.

19 Q. Before you went to the DAPL protest, did you know
20 any protesters that were there?

21 A. I wasn't aware at the time that I went.

22 Q. So you weren't in contact with, with anyone by
23 cellphone or e-mail or otherwise who was already at the
24 DAPL protest before you arrived there?

25 A. No.

1 Q. Prior to the DAPL protest, had you participated
2 in any other protest activities elsewhere?

3 MR. STOLL: Randy, we're about 15 minutes
4 into this now, and you haven't asked a single question
5 that's related to the three limited topics in which
6 discovery is allowed in this deposition, and, you know,
7 I'm going to ask that you move on to topics that are
8 actually allowed under this. You're, you're, you're
9 entitled to, you know, lay some foundation, but
10 questions about her prior protest activities are outside
11 the scope of this deposition.

12 MR. BAKKE: I, I, I don't think so and, and
13 here's why, and I don't want to spend my time arguing
14 about these issues, Mr. Stoll, but her motivations, her
15 intentions, what she planned to do, what she was willing
16 to do, are all at issue in relation to the, to those,
17 the issues that have been identified by Judge Traynor,
18 and so, you know, as to the issue of what the protesters
19 were doing, her motivations, her intentions all go with
20 that, but, like I say, I'm, I'm not going to spend time
21 arguing with you on the record and eating up my, my
22 time, so I, I'm assuming you'll probably ask similar
23 questions of my clients, but this, but if this is going
24 to be an, an issue, we may have to get the magistrate
25 judge involved.

1 MR. STOLL: Well, you can make that
2 decision, but her prior protest activity is not relevant
3 to the three topics, so I'm not going to instruct her
4 not to answer that.

5 Q. Okay. So, Ms. Wilansky, I'll move on to another
6 topic, and we'll let the magistrate judge address that
7 at the appropriate time. In regards to the DAPL
8 Pipeline, what did you understand the purpose of that
9 pipeline to be?

10 A. The purpose of the pipeline?

11 Q. Yes.

12 A. To transport fossil fuels.

13 Q. Did, did you know what kind of fossil fuels?

14 A. I don't remember.

15 Q. Okay. Did, did you know where the fossil fuels
16 were coming from?

17 A. I don't remember.

18 Q. Did you, did you know whether those fossil fuels
19 would be transported in some other manner if the DAPL
20 protest, DAPL Pipeline did not go online?

21 A. I don't know.

22 Q. Did you do any research or did you learn
23 anything, either before you got to the protests or after
24 you were there, about whether there were or were not
25 existing, what you call fossil fuel pipelines underneath

1 the Missouri River?

2 A. Can you repeat the question.

3 Q. Sure. Did, did you learn, either before you got
4 to the protest or after you were there, whether there
5 were already existing pipelines that went under the
6 Missouri River which carried fossil fuels?

7 A. Not that I can remember.

8 Q. Did you learn anything about who owned the land
9 where the protests were occurring?

10 A. Not that I can remember.

11 Q. When you got to North Dakota, did you know which
12 land, if any, was tribal land on the Standing Rock Sioux
13 Reservation?

14 MR. STOLL: Objection to form.

15 A. Sort of.

16 Q. Okay. Maybe you can explain that to me.

17 A. I don't know the exact boundaries of the
18 reservation.

19 Q. Well, you know where the Backwater Bridge is?

20 A. Yes.

21 Q. Okay. We'll put up a map.

22 MR. BAKKE: And this is Exhibit 8.

23 (Defendant's Exhibit #8 was marked for identification.)

24 Q. And you should see that on the screen in front of
25 you in, in a moment here. Do you see that here?

1 MR. STOLL: Randy, I'm going to object to
2 the use of exhibits on the screen where the witness has
3 no ability to see the whole thing and manipulate it.
4 Will you, will you grant me a running objection on that
5 throughout this deposition so that I don't have to
6 object to every exhibit and every question?

7 MR. BAKKE: Well, I, I think we can address
8 that.

9 Q. Ms. Wilansky, if there's something you want us to
10 zoom in or zoom out on during our questioning, we'd be
11 happy to do that. Just let us know.

12 MR. STOLL: Same objection stands, just for
13 ease of the deposition, can I just have a running
14 objection on that?

15 MR. BAKKE: Yeah. You, you can, but, like I
16 said, we, we're, I think we're able to address that.

17 Q. So can you see the map, Exhibit 8, Ms. Wilansky?

18 A. Yes.

19 Q. Okay. And do you see where the Backwater Bridge
20 is labelled on that map?

21 A. Yes.

22 Q. Okay. And is that accurate based on your memory
23 of being at the DAPL protest?

24 A. Yes.

25 Q. Okay. And so if we take Cantapeta Creek -- and

1 you see that on the map. Correct?

2 A. Yes.

3 Q. If we, if we look at the land, and Cantapeta
4 Creek's shown in read, so if we take the land to the
5 north of that, do you know whose land that was, or is?

6 MR. STOLL: Objection it form.

7 A. To the north, you said?

8 Q. To the north, yep?

9 A. No.

10 Q. Okay. And then how about the land south of the
11 Cantapeta Creek, do you know whose land that was during
12 the protests?

13 MR. STOLL: Objection to form.

14 A. How far south?

15 Q. Directly south and, and showing to the bottom of,
16 of the map.

17 A. I believe so.

18 Q. Okay. Whose land was it?

19 A. I believe that it was managed by the Army Corps
20 of Engineers.

21 Q. And how, how did you come to learn that?

22 A. I think that was common knowledge.

23 Q. And so is it your understanding, and was it your
24 understanding during the protest, that the land south of
25 the Cantapeta Creek that you were at was not tribal

1 land?

2 MR. STOLL: Objection, vague.

3 A. No.

4 Q. I'm sorry. I don't understand your answer. Are
5 you saying you did think it was tribal land?

6 A. What do you mean by tribal land?

7 Q. Owned, owned or part of the Standing Rock
8 Reservation?

9 A. No. I didn't believe it was part of the
10 reservation.

11 Q. Okay. You, you thought it was Corps of Engineer
12 land owned by the US government?

13 A. I don't know about the ownership.

14 Q. Well, what, what did you say was common
15 understanding about the Corps of Engineers' land that
16 you have identified south of Cantapeta creek?

17 A. Can you rephrase the question.

18 Q. Yeah. What, what did you believe the role of the
19 Corps of Engineers was in relation to the land south of
20 Cantapeta Creek?

21 A. That it was in their control in some technical
22 sense.

23 Q. Ms. Wilansky, are, are you Native American?

24 A. No.

25 Q. Okay. You're not a, a tribal member in, in any

1 tribe, a Native American tribe in the US?

2 A. No.

3 Q. I, I want to turn to when you got to North
4 Dakota, which I believe you said, was it November 4 that
5 you arrived?

6 A. Yes.

7 Q. And the incident in question where you were
8 injured was on November 21, 2016. Correct?

9 A. Yes.

10 Q. And would that have been the last day you were at
11 the DAPL protests, was November 21, 2016?

12 A. Yes.

13 Q. So using the map, Exhibit 8, and we'll scroll
14 down on that, where, where did you stay between
15 November 4 and November 21 while at the DAPL protests?

16 A. Oceti Sakowin.

17 THE STENOGRAPHER: What, what was that
18 answer?

19 A. Oceti Sakowin.

20 THE STENOGRAPHER: Can you -- oh, I see it.
21 Thank you.

22 MR. BAKKE: It, it's up, shows on the map,
23 Jesse.

24 THE STENOGRAPHER: Yep. I see it. Thanks.

25 Q. And you stayed at the camp?

1 A. Yes.

2 Q. And did you stay with someone else?

3 A. Can you clarify.

4 Q. Yeah. Was there any, did, did you have a
5 residence or a place that you slept and stayed at with
6 someone else, or did you have your own accommodations?

7 A. I had my own tent.

8 Q. And you were staying in a tent?

9 A. Yes.

10 Q. And did you stay in the, the same tent the entire
11 time you were there?

12 A. Yes.

13 Q. And did you pay your own expenses, or did, were
14 those paid by someone else?

15 A. There weren't expenses at camp.

16 Q. Everything was provided for you?

17 MR. STOLL: Objection to form. And, Randy,
18 I feel, I, I'm going to let the witness answer this, but
19 I still fail to see how this is relevant to any of the
20 topics that you're, that it was in the scope of this
21 deposition.

22 A. Can you repeat the question.

23 Q. Yeah. Was everything provided for you so that
24 you didn't have to buy food or other supplies that you
25 needed while you were at the DAPL protests?

1 MR. STOLL: Objection, vague.

2 A. There were a lot of donated materials at camp.

3 Q. And what type of supplies did you get at the
4 camp?

5 A. Food, mostly.

6 Q. Anything else?

7 A. A jacket. I can't remember anything else that I
8 got from donations.

9 Q. Okay. Did you have a gas mask while you were at
10 the DAPL protests?

11 A. No.

12 Q. Did you ever use a gas mask while you were at the
13 DAPL protests?

14 A. No.

15 Q. How about goggles?

16 A. Yes.

17 Q. Okay. And is that something you brought with you
18 or you were supplied there?

19 A. I don't remember.

20 Q. And what were the goggles for?

21 A. To provide some protection to my eyes.

22 Q. Okay. Protection from what?

23 A. Any kind of police weapons.

24 Q. And, and when did you first start using the
25 goggles?

1 A. I don't remember.

2 Q. Was it sometime before November 20, 2016?

3 A. I don't remember.

4 Q. Well, do, do you think November 20, 2016, was the
5 first day you wore the goggles?

6 MR. STOLL: Objection to form, lacks
7 foundation.

8 A. I don't know.

9 Q. Describe the goggles for me.

10 A. They were the soft kind that you would use in the
11 high school chemistry class, splash goggles.

12 Q. Okay. Were they colored or were they just
13 transparent lens, lenses or plastic material that you
14 look through?

15 A. Transparent.

16 Q. Did you have a helmet you used?

17 A. Yes.

18 Q. And describe the helmet.

19 A. It was a snowboarding helmet.

20 Q. Is that something you brought with you?

21 A. Yes.

22 Q. And, and is that something you brought with you,
23 the snowboarding helmet, because you, you believed it
24 would be helpful in relation to any confrontations or
25 incidents you might have with law enforcement while you

1 were protesting?

2 MR. STOLL: Objection to form and objection
3 outside the scope of the deposition. Sophia, I'm
4 instructing you not to answer that.

5 MR. BAKKE: Well, this goes to Issue No. 3
6 of the judge's order, and it also goes to Issue 2
7 dealing with whether Officer Doe was acting in a
8 defensive position at the time of the incident.

9 MR. STOLL: Officer Doe had no idea why she
10 was wearing a helmet, if she was wearing a helmet that
11 night, so her motivations don't have anything to do with
12 2 or 3, and her helmet doesn't have anything to do with
13 the explosive device, so, you know, I continue to
14 instruct the witness not to answer that.

15 MR. BAKKE: Well, with all due respect,
16 Mr. Stoll, I don't think you can determine what Officer
17 Doe's motivations were or what he or she may have seen
18 or what he or she may have thought depending upon what
19 was being worn by Ms. Wilansky at the time, so I think
20 it is relevant to the issues, but, you know, I'll just
21 keep plugging away here understanding that, in many
22 areas, you're going to instruct her not to answer. Any,
23 any of the objection time, I am going to note, is going
24 to come off the record, but you're really handicapping
25 me from asking about the issues that Judge Traynor has

1 said are at issues in this case.

2 Q. Ms. Wilansky, did you have the helmet on, on
3 November 20 and 21?

4 A. Only on November 21st.

5 Q. And about what time do you believe you would have
6 put the helmet on, on November 21st?

7 A. Sometime after 2:00 a.m.

8 Q. And, and why did you put the helmet on sometime
9 after 2:00 a.m. on November 21?

10 A. Because I had heard that, earlier in the night,
11 on November 20th, the police were shooting people in the
12 head.

13 Q. And who did you hear that from?

14 A. A lot of people were saying that.

15 Q. Can you tell me a specific person who told you
16 that?

17 A. I don't remember specifically.

18 Q. Okay. Do you recall where you were at when, when
19 people or someone told you that police were shooting
20 people in the head?

21 A. Yes.

22 Q. Where were you at?

23 A. I was in between Oceti Sakowin Camp and Backwater
24 Bridge.

25 Q. And to make the court reporter's job and

1 everybody else's life easier, can we just call the Oceti
2 Sakowin camp, the camp, you'll know what I mean?

3 A. Yes.

4 Q. And why were you between the camp and the
5 Backwater Bridge at that time when you heard that the
6 police were shooting people in the head?

7 A. I was walking towards the bridge.

8 Q. Okay. And why were you walking towards the, the
9 bridge?

10 A. Because I knew there was something happening up
11 there.

12 Q. When you heard the police were shooting people in
13 the, the head, did you put your helmet on because you
14 felt if you went to the, the Backwater Bridge, you might
15 be in harms way in terms of the same thing happening to
16 you?

17 A. Sorry. I'm a little confused. I heard that on
18 November 20th, but I didn't put my helmet on until the
19 21st.

20 Q. And, and you put your helmet on, on November 21st
21 prior to going to the Backwater Bridge?

22 A. I don't remember exactly when I put it on.

23 Q. But you didn't put it on, on the bridge. Did
24 you?

25 A. I don't remember.

1 Q. Well, did you have it on, on the bridge on the,
2 on the night of this incident on November 21, the
3 helmet?

4 A. Yes.

5 Q. You had put it on sometime before you got to the
6 Backwater Bridge that early morning. Correct?

7 A. I don't remember.

8 Q. When you heard that, from other protesters, that
9 the police were shooting people in the head, did they
10 indicate to you that was people that were on the
11 Backwater Bridge?

12 A. Can you repeat the question.

13 Q. Yes. When, when other protesters told you, on
14 November 20, that there were protesters being shot in
15 the head by police, did they indicate to you that that
16 was people who were on the Backwater Bridge that were
17 being shot by the police?

18 A. I don't remember, specifically.

19 Q. Did they say what they were being shot with?

20 A. I don't think so.

21 Q. I mean, did you understand it, it wasn't with
22 live ammunition from guns?

23 A. I didn't --

24 MR. STOLL: Objection, vague.

25 MS. WILANSKY: Yeah.

1 MR. STOLL: You can answer, Sophia.

2 A. I didn't assume that it was live ammunition.

3 Q. At that point in time, did you know what
4 less-lethal munitions were?

5 A. Yes.

6 Q. Okay. And tell me what you knew about that?

7 A. Sorry. That's very broad. I know that
8 less-lethal munitions is an umbrella term for all kinds
9 of police weaponry other than live ammunition.

10 Q. Well, after you got to the camp on November 4,
11 when did you first learn that the law inform was using
12 less-lethal munitions against protesters?

13 MR. STOLL: Objection, vague.

14 A. I already knew before I got there.

15 Q. And what did you know about that before you
16 already got there?

17 A. I knew that the police were using a wide variety
18 of munitions indiscriminately.

19 Q. And tell me what you mean by wide variety. Give
20 me specifics on what you knew in terms of the types of
21 less-lethal munitions that were being used.

22 A. They were using several types of impact
23 munitions, pepper spray, tear gas, flash bang grenades,
24 probably more. That's all I can think of.

25 Q. Okay. And when you say "impact munitions," what,

1 what do you mean by that?

2 A. There are bean bag rounds as well as rubber
3 bullets.

4 Q. Okay. And so you knew, before you got to the
5 protest, that the protesters were being exposed or shot
6 or injured by law enforcement using impact munitions
7 against the protesters; is that correct?

8 A. Yes.

9 Q. And you knew, before you got to the DAPL protests
10 in North Dakota, that law enforcement was using pepper
11 spray and tear gas against the protesters at the DAPL
12 protests?

13 A. Yes.

14 Q. And you knew, before you got to the DAPL protests
15 in North Dakota, that law enforcement was using what
16 you're calling flash-bang grenades against the
17 protesters?

18 A. Yes.

19 Q. And despite, so you, despite knowing that, you
20 decided to come and participate in the DAPL protests.
21 Correct?

22 A. Knowledge of the indiscriminate use, by police,
23 of all these types of munitions was part of what drove
24 the general outrage about what was happening and part of
25 what was drawing people to the protests.

1 Q. Okay. But that doesn't answer my question.

2 MR. BAKKE: Jesse, could you read the
3 question back.

4 (The requested portion of the record was
5 read by the reporter.)

6 A. My answer was taking issue with the word despite,
7 but, other than that, yes.

8 Q. But, but you knew, before you came to North
9 Dakota to participate in the DAPL protests, that it was
10 likely that if you engaged in protest activities, you
11 would be exposed to the type of less-lethal munitions
12 you just described. True?

13 A. I was aware of that possibility.

14 Q. And, and you knew that possibility of being
15 exposed to these less-lethal munitions was happening
16 primarily on the Backwater Bridge during the protest
17 activities?

18 MR. STOLL: Objection to form, lacks
19 foundation.

20 A. No.

21 Q. So you had not learned or heard from other
22 protesters that there was less-lethal munitions used on
23 protesters on the Backwater Bridge prior to your
24 incident on November 21 at approximately 3:30 to
25 4:00 a.m. in the morning?

1 A. Are you not including November 20th in that.

2 Q. I'm including anytime before that, anytime before
3 your incident.

4 MR. STOLL: Objection to the form, vague.

5 A. I was aware that that was happening on
6 November 20th.

7 Q. On the Backwater Bridge?

8 A. Yes.

9 Q. Okay. So you knew, at least by November 20,
10 2016, that protesters who went on the Backwater Bridge
11 were being shot at by law enforcement with the type of
12 less-lethal munitions you described?

13 MR. STOLL: Objection, misstates prior
14 testimony.

15 A. Can you repeat the question.

16 MR. BAKKE: Jesse, could you read it back.

17 (The requested portion of the record was
18 read by the reporter.)

19 MR. STOLL: Same objection.

20 A. Yes.

21 Q. And despite knowing that, you decided to go onto
22 the Backwater Bridge on the early morning hours of
23 November 21 shortly prior to when your injury occurred?

24 A. Yes.

25 Q. We were talking about what you were wearing on

1 the, the night of the incident, and, and I, I gave a
2 time of the incident occurring sometime between 3:30
3 and, and 4:00 a.m. Central Time in the morning on
4 November 21; is, is that accurate?

5 A. Yes.

6 Q. Can you pinpoint the time any better than that
7 when the incident, which you're claiming involved a, a
8 flash-bang grenade occurred?

9 MR. STOLL: Objection, misstates the record.

10 A. I believe that it was close to 4:00 a.m.

11 Q. Are you able to be any more precise than that?

12 A. No.

13 Q. Okay. And, and why do you say the incident
14 occurred -- and, and can we just call, for purposes of
15 the questioning here today, the incident where you claim
16 you were injured by the flash-bang, the incident?

17 MR. STOLL: Objection. Well, can we, can we
18 just characterize it as the incident, like the incident
19 referring to when she was injured, that's the subject of
20 this case?

21 MR. BAKKE: I think that's kind of what I
22 just said.

23 MR. STOLL: Well, I just want to --

24 MR. BAKKE: I don't want to have to repeat
25 every time Ms. Wilansky, nor do I want you to have to

1 repeat the flash-bang incident so...

2 MR. STOLL: I used the word flash-bang from
3 that description of the incident, is that still
4 something that, you know, is at issue in this case.

5 Q. Anyway, Ms., Ms. Wilansky, if I call the incident
6 where you're claiming your injury from the flash-bang,
7 the flash, the incident, are you, you'll know what I
8 mean?

9 MR. STOLL: Objection.

10 A. No.

11 Q. So you don't understand that that, the alleged
12 flash-bang incident would be something that we could
13 refer to as the incident to speed things up here?

14 MR. STOLL: Objection to form.

15 A. You can refer to the incident where I was injured
16 as the incident.

17 Q. Okay. That's fine. So you said it was close to
18 4:00 a.m. What, what, what is there in your memory or
19 otherwise that, that tells you that was the time of the
20 incident?

21 A. I was checking the time periodically on my phone.

22 Q. And when was the last time you recall checking
23 the time on your phone before the incident occurred?

24 A. I don't remember specifically. And can we take a
25 break, please?

1 MR. STOLL: Sure.

2 MR. BAKKE: Yep.

3 MR. STOLL: Go off the record.

4 THE VIDEOGRAPHER: We are off the record at
5 8:57, excuse me --

6 MR. STOLL: 10:57.

7 THE VIDEOGRAPHER: 10:57 -- I'm unable to
8 see because of the share screen -- a.m.

9 (Recess taken at 10:57 a.m.)

10 THE VIDEOGRAPHER: We are back on the record
11 at 11:06 a.m.

12 Q. Okay. Ms. Wilansky, we were talking about
13 November 20 and November 21, 2016, and your activities
14 at the protest. You mentioned that, on November 20, you
15 had heard from protesters that they were being shot in
16 the head by law enforcement with less-lethal munitions.
17 Correct?

18 MR. STOLL: Objection, misstates prior
19 testimony.

20 A. I didn't say what they were being shot with.

21 Q. Okay. Okay. What did you understand they were
22 being shot with?

23 A. I don't know.

24 Q. Well, did, did you discuss less-lethal,
25 less-lethal munitions with any other protesters?

1 A. I don't remember specifically.

2 Q. Okay. Well, you, you told me that you knew
3 before you got to the protest, and you described the
4 type of less-lethal munitions that were being against
5 the protesters. Is that what you understood was being
6 used on November 20 to shoot the protesters in the head?

7 MR. STOLL: Object to form.

8 A. I understood that those were among possible
9 things.

10 Q. Okay. Did you see anyone on November 20 that was
11 injured by less-lethal munitions used by law
12 enforcement?

13 A. Yes.

14 Q. Okay. And what type of injuries did you observe
15 with protesters on November 20?

16 A. Mostly being shot with impact munitions.

17 Q. Well, what were the nature of the injuries that
18 you either saw or had described to you by other
19 protesters on November 20 from the impact munitions?

20 A. Other than hearing that people were shot in the
21 head, I didn't see any injuries up close.

22 Q. Did you see any of these head injuries from being
23 shot in the head by police on November 20?

24 A. Not that I can remember.

25 Q. Did you physically observe any injuries to any

1 protesters on November 20?

2 A. I saw people being shot --

3 Q. Okay.

4 A. -- with impact munitions.

5 Q. On November 20?

6 A. Yes.

7 Q. Tell me about that.

8 A. I'm not sure what else to say about that.

9 Q. Tell me what you saw, where you were at?

10 A. I was on and near the bridge for a long time.

11 Q. On November 20?

12 A. Yes.

13 Q. And when you say, "for a long time," how long a
14 time?

15 A. Many hours.

16 Q. And approximately from when to when or was it
17 intermittent?

18 A. I arrived not long after dark. I'm not sure what
19 time I left.

20 Q. So when you say "not long after dark," would that
21 put it sometime around the 6:00 o'clock p.m. Central
22 Time timeframe?

23 A. Yes, approximately.

24 Q. And then, you remained there continuously for,
25 for many hours at or on the Backwater Bridge?

1 A. On or near the bridge, yes.

2 Q. And when you say, "Many hours," is that three
3 hours; is that five hours?

4 A. More than three hours.

5 Q. Continuously?

6 A. On or near the bridge, continuously.

7 Q. And, and is that when you observed less-lethal
8 munitions being used on the protesters by law
9 enforcement on November 20?

10 A. Yes.

11 Q. During those three hours?

12 A. Well, it was more than three hours.

13 Q. Okay. But during the more than three hours that
14 you were on or near the Backwater Bridge, law
15 enforcement were using the less-lethal munitions you
16 described?

17 A. Yes.

18 Q. Okay. And, and tell me what you saw in regards
19 to the type of less-lethal munitions being used by law
20 enforcement during that more than three hours you were
21 on and near the bridge?

22 A. I saw people being shot, I believe, with bean bag
23 rounds. I don't remember if there were rubber bullets
24 as well, or I don't remember seeing them. There were
25 lots of tear gas, tear gas grenades as well as other

1 types of grenades.

2 Q. When you say other types of grenades, what do you
3 mean by that?

4 A. Munitions that exploded with lights and sound but
5 that didn't contain tear gas.

6 Q. Okay. Any other less-lethal munitions you
7 observed while you were on or near the bridge on
8 November 20 other than the ones you've just described?

9 A. Well, there were, were water cannons.

10 Q. Okay. Anything else being used by law
11 enforcement?

12 A. Not that I remember.

13 Q. And, and was law enforcement using the
14 less-lethal munitions you described during the entire
15 time period of the more than three hours you were on or
16 near the bridge on November 20?

17 A. Can you repeat the question?

18 Q. Sure.

19 MR. BAKKE: Jesse, could you read it back?

20 (The requested portion of the record was
21 read by the reporter.)

22 THE STENOGRAPHER: I'm sorry. Let me, let
23 me say that again. I got something wrong. And was law
24 enforcement --

25 MR. BAKKE: Here, I'll just --

1 THE STENOGRAPHER: Can I repeat it again?

2 MR. BAKKE: Jesse, let me just rephrase it.

3 THE STENOGRAPHER: All right.

4 MR. BAKKE: No. I'll, I'll, I'll repeat it
5 to speed this up.

6 Q. What, what I'm trying to understand, Ms.
7 Wilansky, is, during that three-plus hours that you were
8 on or near the Backwater Bridge on November 20, was law
9 enforcement using the less-lethal munitions you
10 described on a continuing basis?

11 A. They, they were using less-lethal munitions much
12 of the time. I don't know that it was all of the time.

13 Q. And do you have an estimate during that
14 three-hour time period, and it may have changed and you
15 can tell me if it did, how many protesters there were at
16 or near or on the Backwater Bridge area that night of
17 November 20?

18 A. I'm not great at estimating crowd size but in the
19 realm of hundreds.

20 Q. Okay. Could it be over a thousand?

21 A. I don't know.

22 Q. And were you able to observe how many law
23 enforcement there was on the north side of Backwater
24 Bridge when you arrived shortly after dark around
25 6:00 p.m. on November 20 at the Backwater Bridge?

1 A. No, I'm not sure how many.

2 Q. Was it less than the amount of protesters that
3 were on the other side?

4 A. I don't know.

5 Q. Did the number of law enforcement officers
6 increase, decrease, stayed the same over the more than
7 three hours you were on or near the Backwater Bridge on
8 November 20?

9 A. I don't know.

10 Q. Did the number of protesters, from when you got
11 there around 6:00 p.m. on November, increase, decrease
12 or stayed the same over the more than three hours you
13 were on or near the bridge?

14 A. I'm not sure.

15 Q. You mentioned what you called water cannons.
16 Where those something that was being used from a fire
17 truck, if you know?

18 A. I believe they were mounted on the armored
19 vehicle.

20 Q. And do you recall there being more than one, what
21 you call, the water cannon?

22 A. I'm not sure.

23 Q. You recall one, one water cannon?

24 A. I recall at least one.

25 Q. And the water cannon you recall, where was it

1 spraying water?

2 A. Onto the bridge.

3 Q. And was that the location where the water cannon
4 was spraying water, was on the bridge, the, during the
5 time period you were there for the more than three
6 hours?

7 MR. STOLL: Objection to form, vague.

8 A. Can you rephrase?

9 Q. Yeah. Was the location where the water canon was
10 directed, where the water landed, was it always on the
11 Backwater Bridge during the time period you were there
12 on November 20?

13 A. I don't think it was in use the whole time so I
14 can't say always.

15 Q. Okay. Whenever the water cannon was used, was it
16 directed to protesters on the Backwater Bridge on
17 November 20?

18 A. When I witnessed it being used, it was directed
19 at protesters on the bridge.

20 Q. Okay. And did you get sprayed by the, the water
21 being used by law enforcement when you were on the
22 Backwater Bridge on November 20?

23 A. Yes.

24 Q. Did you have some type of shield or poncho or
25 tarp or something that you were using to try to avoid

1 getting wet from the water?

2 A. Not me personally.

3 Q. And am I correct in understanding that if a
4 protester such as you did not want to be exposed to the
5 water cannon being used by law enforcement, you simply
6 could have avoided going on the Backwater Bridge so that
7 you didn't get exposed to the water cannon. Correct?

8 MR. STOLL: Objection to form.

9 A. Well, there was a large crowd at that time.

10 Q. That, that doesn't answer my question. I'll,
11 I'll restate it. The only people who were getting water
12 on them when you were there on November 20 in the
13 evening where people who, protesters who went on the
14 Backwater Bridge. Correct?

15 A. As far as I can remember.

16 Q. So if, as a protester, for instance, you, if you
17 wanted to avoid getting sprayed by the water cannon, it
18 would be simply a matter of staying off the Backwater
19 Bridge on the evening of November 20. Correct?

20 MR. STOLL: Objection to form.

21 A. Not necessarily.

22 Q. Okay. Explain why you say not necessarily.

23 A. If, if somebody was on the bridge when they
24 started using the water cannon, they would have to make
25 their way through a crowd of people to get away.

1 Q. Okay. When, when you got there around dark, was
2 the water cannon already in use?

3 A. I don't believe so.

4 Q. Okay. And did you go onto the Backwater Bridge
5 when the water was being sprayed there, or were you on,
6 already on the bridge and then the water cannon started
7 and you didn't know it was going to start?

8 A. I was already on the bridge.

9 Q. Okay. And so, in response to the water cannon,
10 did you stay on the bridge, or did you get off the
11 bridge?

12 A. I don't think I can isolate the water cannon
13 alone as the motivating factor.

14 Q. Well, but did you say on the bridge when the
15 water cannon was being used for some period of time?

16 A. Yes.

17 Q. Okay. And how long did you stay on the bridge
18 with the water cannon being used and it was getting you
19 wet?

20 A. A few minutes.

21 Q. Do you recall there being protesters that were
22 getting sprayed with the water cannon who was, who were
23 acting as if they were showering?

24 MR. STOLL: Objection to form.

25 A. I'm not sure how someone acts when they are

1 showering.

2 Q. Like rub, rubbing themselves with a bar of soap.

3 A. I don't remember that.

4 Q. Okay. Do you recall protesters dancing in the
5 water coming from the water cannon?

6 A. Yes.

7 Q. Okay. Do you recall protesters saying, when the
8 water was spraying on them, hit me, hit me?

9 A. No, I don't remember that.

10 Q. Do you recall them saying, protesters saying,
11 when they were on the Backwater Bridge, whether the, the
12 water's on or off, to law enforcement, you are
13 outnumbered?

14 A. No.

15 Q. Do you recall protesters saying, on the night of
16 November 20, to law enforcement, when they were on the
17 bridge, we are willing to die for this?

18 A. No.

19 Q. Do you recall protesters, while on the Backwater
20 Bridge on November 20 saying, we get paid for this?

21 A. Definitely not.

22 Q. When you were on the bridge out of that more than
23 three hours where you said you were on or near the
24 bridge, how many of those hours would you have
25 physically been on the bridge?

1 A. I don't know.

2 Q. Was it more than an hour?

3 A. I don't know.

4 Q. Okay. Was it more than five minutes?

5 A. Yes.

6 Q. Okay. So give me your best estimate of, of, out
7 of the more than three hours you're on or near the
8 bridge, how much of that time was spent near the bridge
9 versus on the bridge?

10 A. I believe most of it was not on the bridge.

11 Q. And when you say, most of it not on the bridge,
12 can you give me a time estimate?

13 A. No.

14 Q. If we put up Exhibit 8, the, the map, and,
15 actually, let's use a, a closer up map of the Backwater
16 Bridge area, we'll use Exhibit 9.

17 (Defendant's Exhibit #9 was marked for identification.)

18 Q. Okay. Do you see Exhibit 9 on your screen?

19 A. Yes.

20 Q. Okay. And do you see where the Backwater Bridge
21 is located?

22 A. Yes.

23 Q. Okay. And so when you were telling us that you
24 were on or near the bridge, when you say you were near
25 the bridge, where were you physically located at in that

1 more than three hour time period for the part of that
2 time that you were near the bridge?

3 A. I was a lot of places. The area to the, the
4 northeast as well as the southwest as well as on the
5 south side of the bridge.

6 Q. When, when you were on or near the Backwater
7 Bridge on November 20, were you with anyone that you
8 knew?

9 A. No.

10 Q. In other words, you didn't have a person or
11 persons that you were doing things with that, that
12 evening of November 20?

13 A. Correct.

14 Q. And when you say you were northwest of the
15 bridge, you know, how many feet away from the bridge was
16 the furthest point you got to the, did you say the
17 northeast?

18 A. Northeast.

19 Q. Yeah.

20 A. Can you repeat the question.

21 Q. Yeah. I'm just trying to understand, what's the
22 furthest to the northeast you got from the bridge during
23 that three-plus hours that you were on or near the
24 bridge?

25 A. I'm not sure.

1 Q. Okay. Were you up close to the Cantapeta Creek?

2 A. How close?

3 Q. That's what I'm asking you?

4 A. I don't remember how close to the creek.

5 Q. Okay. What, what was the closest you got to the
6 creek on the northeast side on November 20?

7 A. I don't remember going near the creek.

8 Q. Okay. Do you remember seeing a razor wire
9 barrier along the creek on the northeast side of
10 Backwater Bridge on November 20?

11 A. I remember seeing razor wire on the bridge that
12 extended out to both sides.

13 Q. Okay. And was that present the entire time you
14 were at the DAPL protests, the razor wire on the north
15 side of the Backwater Bridge extending both to the east
16 and west from the bridge?

17 A. I don't know.

18 Q. Okay. That razor wire was present, however, on
19 November 20 and 21 when you were on or near the
20 Backwater Bridge. Wasn't it?

21 A. Yes.

22 Q. Okay. When, when you were on the Backwater
23 Bridge on the evening of November 20, how close did you
24 get to the razor wire on, on the north side of the
25 Backwater Bridge?

1 A. I don't remember.

2 Q. Well, do you remember whether you were right up
3 next to the razor wire on the Backwater Bridge on
4 November 20?

5 A. I don't think so.

6 Q. Okay. How close is the closest you got to the
7 razor wire on November 20 when you were on the Backwater
8 Bridge?

9 A. I'm not great at gaging distance. I'm not sure.

10 Q. Well, was it, was it a car length away? Can you
11 give me some sense of whether you got within ten feet or
12 a hundred feet or...

13 A. At, at least a car length away.

14 Q. Okay.

15 A. And within a hundred feet.

16 Q. So just, just so I'm clear on your, your answer,
17 what you're saying is, when you were on the Backwater
18 Bridge itself on November 20, when you were on there,
19 you would estimate that, during that time period,
20 depending upon the precise time, you would have been
21 about a car length away from the razor wire up to a
22 hundred feet away from the razor wire; is that correct?

23 MR. STOLL: Objection to form, misstates
24 prior testimony and vague.

25 A. The closest I ever got, as far as I can remember,

1 was more than a car length but less than a hundred feet.

2 Q. Okay. And, and when you were in this position
3 where you were more than a car length but less than a
4 hundred feet from the razor wire, how long did you
5 remain there?

6 A. Well, there may have been other times that I was
7 less than a hundred feet away, but at the closest point,
8 not long, a few minutes.

9 Q. Okay. Was there ever a time on November 20 when
10 you were on the Backwater Bridge when you were the, in
11 the front row or the closest group of protesters to the
12 razor wire?

13 A. No.

14 Q. There were always protesters in front of you to
15 the north closer to the razor wire than you?

16 A. Yes.

17 Q. When you were on the Backwater Bridge on
18 November 20, in the evening, was the Backwater Bridge
19 essentially covered with other protesters?

20 MR. STOLL: Objection, vague.

21 A. I don't know.

22 Q. Well, was it crowded with protesters when you
23 were on the Backwater Bridge on November 20?

24 A. At some points, it was crowded.

25 Q. I want to talk, for a few moments, about the law

1 enforcement activity on November 20. When you're on the
2 bridge or near the bridge for that three-plus hours on
3 November 20, did law enforcement, at all times, stay
4 behind their side of the razor wire?

5 A. No.

6 Q. And same question regarding the early morning
7 hours of November 21 up to and leading up, the time of
8 the incident, did law enforcement ever cross over the
9 razor wire and come on the south side of the razor wire?

10 A. Not that I know of but that's --

11 Q. And you --

12 A. -- the opposite question of the one you asked
13 before.

14 Q. I'm sorry?

15 A. I was just saying, that's the opposite question
16 of what you asked before.

17 Q. Well, I don't think so, but I, I can ask it again
18 to make sure we're on the same wavelength here. What I
19 was asking about is, on November 21, in the early
20 morning hours leading up to and, and when your injury
21 occurred, was there ever a time, when you're aware of or
22 that you saw, the law enforcement did not remain on the
23 north side of the razor wire on the Backwater Bridge?

24 A. No. But they didn't stay on their side the
25 entire time on November 20th.

1 Q. Okay. When you say, "They didn't stay on, on
2 their side the entire time on November 20th," tell me
3 about that.

4 A. There was one point where, where some police
5 officers came around the western side of the barrier.

6 Q. When you say "the western side of the barrier,"
7 are you talking some distance away from the Backwater
8 Bridge?

9 A. Yes. The end of the barrier.

10 Q. Okay. Where the, where the razor wire ended,
11 wherever that was?

12 A. Yes.

13 Q. Okay. And do you know how far west the razor
14 wire ended from the Backwater Bridge on November 20?

15 A. No.

16 Q. And is it something you observed that you saw
17 some officer on the, the west side on November 20?

18 A. Yes.

19 Q. Okay. And what did you observe in that regard?

20 A. Just that people were spreading out more on the
21 west side and then the police came around and pushed
22 people back.

23 Q. Okay. But you weren't one of those people over
24 there?

25 A. Over where?

1 Q. On the west side where you say the police pushed
2 people back, were you one of those people that got
3 pushed back?

4 A. I wasn't close to the police.

5 Q. Okay. Did you observe the police pushing people
6 back on the west side of the Backwater Bridge on
7 November 20?

8 A. Yes.

9 Q. Okay. And were they, when you say pushing people
10 back, what were the police doing?

11 A. Well, they were moving towards the people, and I
12 believe they were also shooting at them.

13 Q. Did, did you -- with less-lethal munitions?

14 A. Yes.

15 Q. Okay. Do you know what type of less lethal
16 munitions?

17 A. No, I don't remember.

18 Q. Was there any physical contact when you looked on
19 the west side and the police were pushing people back
20 between the protesters and law enforcement?

21 A. Well, the people were shooting people with impact
22 munitions.

23 Q. Okay. And when I say physical contact, I mean
24 the police officers themselves touching protesters or
25 vice versa with their bodies or hands?

1 A. No. I didn't see that kind of physical contact.

2 Q. Okay. And then, turning back to November 21,
3 2016, leading up to and at the time of the incident, am
4 I correct in understanding the law enforcement officers
5 remained on the north side of the razor wire on the
6 Backwater Bridge?

7 A. As far as I know, yes.

8 Q. Where they essentially defending their position
9 on the north side of the razor wire on the Backwater
10 Bridge?

11 MR. STOLL: Objection to form, vague, calls
12 for speculation.

13 A. I don't know what their, what their motivations
14 were.

15 Q. But, but they didn't move across that razor wire
16 and try to come onto the bridge north of the razor wire,
17 nor in any other area that you saw on November 21
18 leading up to or at the time of your incident?

19 A. Correct --

20 MR. STOLL: Object -- sorry. Sophia, you
21 got to give me an opportunity --

22 MS. WILANSKY: Sorry.

23 MR. STOLL: -- to object before you answer.
24 So, objection, vague. Sophia, you can answer if you
25 can.

1 A. Correct. I never saw them cross.

2 Q. I'm going to put up what's been marked as
3 Deposition Exhibit 16. Can you see that photograph?
4 (Defendant's Exhibit #16 was marked for identification.)

5 A. Yes.

6 Q. Okay. And is that a photograph of you taken by
7 another protester shortly following your injury on
8 November 21?

9 MR. STOLL: Objection, calls for
10 speculation.

11 A. It was taken on November 21.

12 Q. Okay. Was it taken by one of the protesters
13 shortly following your injury?

14 MR. STOLL: Objection, lacks foundation.

15 A. I don't know if they were protesting.

16 Q. Well, it's, it's got on the bottom what we call a
17 bates label, and it says WILANSKY-0002157 which means it
18 was a document you produced to us in this case with your
19 discovery answers. Where did you get that photograph
20 from?

21 MR. STOLL: Objection, lacks foundation.

22 A. I didn't have that. I think my lawyers produced
23 it.

24 Q. Okay. And, and we've seen it posted on Facebook
25 by other protesters. Do you believe this would have

1 been the earliest photograph taken of you following your
2 injury on November 21?

3 MR. STOLL: Objection to the statement
4 before the question and objection, lacks foundation.

5 A. That was the first photograph that I was aware of
6 being taken of me.

7 Q. Okay. And we can see in the photograph that you
8 had on a, a green, kind of a, I'll call it a puff
9 jacket; is that correct?

10 A. Yes.

11 Q. Okay. And do you recall where and when you got
12 that jacket?

13 A. I got it from the clothing donations and I don't
14 remember when.

15 Q. Okay. At the supply tent at the camp?

16 A. There was a, a tent for clothing donations.

17 Q. And, and we'll back up a little bit further in
18 the photograph so we can see most of your body at that
19 time. Was this the clothing that you would have been
20 wearing at the time of the incident on the Backwater
21 Bridge on November 20?

22 MR. STOLL: You mean 21?

23 Q. I'm sorry. November 21.

24 A. Yes. I was wearing those clothes.

25 Q. Okay.

1 A. (Inaudible) --

2 Q. So you had on two winter coats or jackets?

3 A. No.

4 Q. Okay. Because it, it appears in the photograph,
5 and, and I'm, I'm just trying to understand what you
6 were wearing, it appears like you have a green jacket on
7 and also kind a navy blue jacket on. Was this a
8 multicolor jacket or is it...

9 A. I believe that's a vest under the jacket.

10 Q. Well, I see the vest, but if you look below your,
11 your right arm or your right elbow there in the
12 photograph, the lower portion appears to show a jacket
13 that's kind of a navy blue in color. Is that a jacket
14 or is it something else you were wearing?

15 A. Under my right arm?

16 Q. Under your right arm, right.

17 A. I don't know what that is.

18 Q. Okay. So what color was the jacket you were
19 wearing on the night of this incident?

20 A. Green.

21 Q. Okay. I mean, is it the green we see in the
22 photograph on your arm there?

23 A. Yes.

24 Q. Do you recall what brand it was?

25 A. No.

1 Q. You recall how far down it went on your body when
2 you had it on?

3 A. No.

4 Q. Do you remember whether it was waist length, or
5 did it go down to your knees?

6 A. More like waist length.

7 Q. And was it a, a warm jacket?

8 A. It was relatively warm.

9 Q. Was it some sort of fill material like a goose
10 down or some other insulating material?

11 A. I don't think I checked what the material was.

12 Q. And where is that jacket now?

13 MR. STOLL: Objection, lack of foundation.

14 A. I don't know.

15 Q. What, what did you, when, when did you last see
16 it?

17 A. The last time that it was in tact was at the
18 casino.

19 Q. Okay.

20 A. Just not long after this picture was taken.

21 Q. Okay. When you say, "The last time it was intact
22 was at the casino," at some point, was it removed from
23 you?

24 A. I don't remember exactly, but it must have been
25 cut off.

1 Q. Okay. And do, do you know, did, did somebody
2 keep it so that it's available today, with someone?

3 A. Well, at that point, it was in two pieces, and I
4 don't know what happened to the larger piece.

5 Q. Okay. Was there part of it that was kept?

6 A. The, the smaller part?

7 Q. Sure.

8 A. I believe the FBI took it.

9 Q. Shortly prior to when the incident occurred,
10 it's, it's my understanding and, and it's in your
11 complaint that you allege that you were hit by some type
12 of munition impact; is that correct?

13 A. Can you repeat the question.

14 Q. Yes. If, if I understand it, you're claiming
15 that, at the time shortly prior to this incident, that
16 you were struck with some type of impact munition prior
17 to when the explosion occurred. Correct?

18 A. Yes.

19 Q. And that you were struck by an impact munition in
20 your arm?

21 A. Yes.

22 Q. Okay. And, and which arm?

23 A. My left arm.

24 Q. Okay. And, and where on your left arm?

25 A. Do you want me to show you?

1 Q. Sure.

2 A. Oh, the light's not great. I have a scar right
3 here.

4 MR. BAKKE: Jeff, is there a way you can
5 zoom in on that?

6 THE VIDEOGRAPHER: I do not have the ability
7 to zoom, ironically.

8 Q. You, could you stand back up, Ms. Wilansky, and
9 just put, point to there, where that is with your
10 finger. Okay. And so, just so we can describe this,
11 it's about midway from the top of your shoulder to your
12 elbow, roughly?

13 A. Yes.

14 Q. Okay. And you're pointing to the, the front of
15 your left arm. Correct?

16 A. I'm not sure how you define the front.

17 Q. Well, the, the front would be on the front of
18 your body as opposed to the backside of your body.
19 Correct?

20 MR. STOLL: It appears more like on the
21 outside part of her arm to me.

22 Q. Well, you're, you're pointing to where it is, so
23 I think we've got a, a good enough picture we can see
24 that. You can go ahead and sit down. Thank you. And
25 that, you believe, was a some sort of an impact round

1 that, that struck you there?

2 A. Yes.

3 Q. Okay. Do, do you know what kind of impact round,
4 a bean bag, a sponge round, a rubber bullet, something
5 else?

6 A. I don't know.

7 Q. Okay. And was anything recovered following this
8 incident the terms of what hit you in your upper-left
9 arm there that you're aware of?

10 A. Relating to me, specifically, I don't know.

11 Q. Okay. In the photograph, we can see, we'll put
12 Exhibit 16 back up, and you've told us that you had some
13 type of clothing on underneath the, the green winter
14 coat; is that correct?

15 A. Yes.

16 Q. And at, at the time of the incident, what is the
17 black clothing you had on inside the green jacket?

18 A. I was wearing a base layer and a vest and no
19 overalls.

20 Q. When you say a base layer, what do you mean by
21 that?

22 A. A long sleeve shirt and long pants, thin.

23 Q. Okay. And then the vest, that I assume, did not
24 cover your arms, it was just your upper body?

25 A. Yes.

1 Q. So when this impact munition hit your upper-left
2 arm, did it perforate or make a hole in your green
3 jacket?

4 A. I don't think so.

5 Q. Did it cut it or tear the jacket in any way?

6 A. Not that I remember.

7 Q. Any, anything else that you were wearing other
8 than shows up in Exhibit 16 in terms of outerwear at the
9 time of the incident on November 21?

10 A. Well, I had a helmet.

11 Q. And do you know what happened to the helmet?

12 A. No.

13 Q. Okay. Do you still have it?

14 A. No.

15 Q. Okay. Let, let's turn to the November 21
16 incident. And you indicated that the explosion where
17 you were injured happened shortly prior to 4:00 a.m.
18 Correct?

19 A. It was around 4:00 a.m.

20 Q. Okay. And after the three-plus hours that you
21 were on or near the Backwater Bridge on November 20, did
22 you go back to the camp for a time period?

23 A. Yes.

24 Q. Okay. And what were you doing back at the camp?

25 A. I ate.

1 Q. Okay. Anything else?

2 A. I stopped by a fire.

3 Q. At the camp?

4 A. Yes.

5 Q. And then how long was it between when you got
6 back to the camp until you decided to go back to the
7 Backwater Bridge on the early morning hours of
8 November 21?

9 A. I was at camp for a few hours.

10 Q. Can you give me an estimate of from when to when?

11 A. Maybe 10:00 or 11:00 p.m. to 2:00 a.m.
12 approximately.

13 Q. Was it about 2:00 a.m. when you headed back to
14 the Backwater Bridge on November 21?

15 A. I headed back towards the bridge around 2:00 a.m.

16 Q. And, and from that 10:00 to 11:00 p.m. to
17 2:00 a.m. time period, had you consumed any alcohol?

18 A. No.

19 Q. Were you under the influence of any drugs?

20 A. No.

21 Q. On November 20 or 21, at any time prior to this
22 incident, did you consume any alcohol?

23 MR. STOLL: Objection, vague.

24 A. No.

25 Q. Or were you under the influence of any drugs

1 during that time period?

2 A. No.

3 Q. When you were at the camp between 10:00 to
4 11:00 to 2:00 a.m. on November 20, '21, who else do you
5 recall interacting with?

6 A. Somebody served me at the kitchen.

7 Q. You said you were at the fire. Do you remember
8 who you were at the fire with?

9 A. No.

10 Q. Can you tell me the, the names of any individuals
11 when you were back at the camp between 10:00 and
12 11:00 p.m. to 2:00 a.m. that you spoke with or were
13 conversing with?

14 A. No.

15 Q. You didn't know any of the people that were at
16 the fire?

17 A. I don't remember who was at the fire.

18 Q. On November 20, when you were on or near the
19 Backwater Bridge, can you tell me the names of any
20 individuals who were also there when you were there?

21 A. I know Richard Fisher was there.

22 Q. Who's Richard Fisher?

23 A. He was somebody who was near me in camp.

24 Q. So you got to know him?

25 A. To some extent.

1 Q. Okay. And where is Mr. Fisher from?

2 A. South Dakota, I believe.

3 Q. Do you have Mr. Fisher's contact information?

4 A. I don't think so.

5 Q. And what do you know about Mr. Fisher? You know
6 where he lives, what he does?

7 A. What he does now.

8 Q. What he did then, what he does now?

9 A. I don't know where he lived or what he does now.

10 Q. Okay. So did you know back at the time, did he
11 tell you what he did or where he's from or anything
12 about his family or anything like that?

13 A. I believe he told me that he was from a
14 reservation in South Dakota.

15 Q. Okay. Did he tell you anything else about
16 himself?

17 A. I don't remember specifically.

18 Q. And, and what interaction did you have with Mr.
19 Fisher on November 20 in relation to being at or near or
20 on the Backwater Bridge?

21 A. We walked there together on November 20th.

22 Q. Okay. And did you walk there together with
23 anyone else you knew?

24 A. There was another woman with us, but I didn't
25 know her very well.

1 Q. Do you know her name?

2 A. No.

3 Q. So turning back to that time period between
4 10:00 to 11:00 p.m. and 2:00 a.m. when you're at the
5 camp, was there some discussion or planning about going
6 back to the Backwater Bridge?

7 MR. STOLL: Objection, vague.

8 A. I didn't hear any planning.

9 Q. What did you hear?

10 A. I heard that people were planning to be there the
11 following day.

12 Q. You mean the, the, the next morning when it was
13 light out?

14 A. Yes.

15 Q. Okay. And, and what were they planning on doing
16 on November 21 during daylight hours, the protesters?

17 MR. STOLL: Objection, calls for
18 speculation.

19 A. I don't know.

20 Q. What were you told?

21 A. That more people would be at the bridge the
22 following morning and day.

23 Q. Okay. To do what?

24 MR. STOLL: Objection, calls for
25 speculation.

1 A. I, I don't have any way of knowing what, if
2 anything, people wanted to do the following day.

3 Q. How did it come about that you decided to go back
4 to the Backwater Bridge around 2:00 a.m. on November 21?

5 A. I think I already intended to go back.

6 Q. Why?

7 A. Because there were still people around there when
8 I left.

9 Q. Around the Backwater Bridge, around the Backwater
10 Bridge?

11 A. Yes.

12 Q. How far was it from where you were at, at camp to
13 the Backwater Bridge?

14 A. About a mile. Can we take a break?

15 MR. BAKKE: Sure.

16 MR. STOLL: Let's go off the record.

17 THE VIDEOGRAPHER: We are off the record at
18 12:16 p.m.

19 (Recess taken at 12:16 p.m.)

20 THE VIDEOGRAPHER: We are back on the record
21 at 12:26 p.m.

22 Q. Okay. Ms. Wilansky, we were talking about that
23 timeframe at about 2:00 a.m. when you went back to the
24 Backwater Bridge, and is that the time you got to the
25 Backwater Bridge on the morning of November 21 was about

1 2:00 a.m.?

2 A. Yes.

3 Q. Okay. And so would you estimate that you were at
4 the Backwater Bridge on November 21 before the incident
5 occurred for about two hours?

6 A. Can you repeat the question.

7 Q. Yes. You, you, you told me that you got to the
8 Backwater Bridge on November 21 at about 2:00 a.m. and
9 then you had told me earlier it was close to 4:00 a.m.
10 when the incident occurred. Correct?

11 A. Yes.

12 Q. Okay. And so my question was, were you at the
13 Backwater Bridge, on the Backwater Bridge for about two
14 hours between 2:00 a.m. until close to 4:00 a.m. when
15 the incident occurred?

16 A. I was on/or in the vicinity of the bridge for
17 about two hours.

18 Q. Okay. And when you say "in the vicinity of the
19 bridge," what does that mean?

20 A. There were several campfires between the bridge
21 and Cantapeta Creek as well as. There may have been at
22 least one south of the bridge, but I don't remember if
23 that was still going at the time.

24 Q. So, of that two hours between 2:00 a.m. and close
25 to 4:00 a.m., how much of that time did you actually

1 spend on the bridge?

2 A. I don't remember.

3 Q. Well, if we take the incident itself, for how
4 long had you been on the Backwater Bridge itself before
5 the incident occurred?

6 A. It felt like a long time.

7 Q. So you, you'll have to tell me what a long time
8 is for you.

9 A. I'm not sure.

10 Q. Was it 15 minutes, an hour, over an hour?

11 A. I'm not sure.

12 Q. Okay. Can you give me any estimate at all what
13 you mean by "a long time" on the bridge?

14 A. Well, it was definitely less than two hours.

15 Q. So, of that, that two hours when you're back or
16 near the Backwater Bridge from 2:00 a.m. to about
17 4:00 a.m., was most of that time spent by you on the
18 bridge?

19 A. I don't know if it was most of the time.

20 Q. All you can tell me is, out of the two hours, it
21 was a long time you spent on the bridge?

22 A. Yes.

23 Q. When you left the camp, did you bring anything
24 with you at 2:00, shortly prior to 2:00 a.m. when you
25 went back to the Backwater Bridge?

1 A. My cellphone was in my pocket.

2 Q. And you told me, told us early you had, had your
3 helmet on. Correct?

4 A. I don't remember when I put it on.

5 MR. STOLL: Objection, misstates her
6 testimony.

7 Q. But, but you had it on when you were there at the
8 Backwater Bridge for that, roughly, two-hour time period
9 where you were on or near the bridge. Correct?

10 A. I don't know if I had it on the whole time.

11 Q. And the helmet, was that something that you kept
12 in the tent at the camp?

13 A. Yes.

14 Q. Okay. In other words, you brought it with you
15 from the camp when you went back to the Backwater Bridge
16 at about 2:00 a.m.?

17 A. Yes.

18 Q. And did you have a backpack with you?

19 A. I'm pretty sure that I did not have a backpack.

20 Q. Did you have a backpack with you there at the
21 protests?

22 MR. STOLL: Objection, vague.

23 A. I had at least, at least one or two backpacks at
24 camp.

25 Q. When, were you, were you carrying anything with

1 you when you left the camp and arrived at the Backwater
2 Bridge at about 2:00 a.m. on November 21?

3 A. My cellphone was in my pocket.

4 Q. Okay. Other than your cellphone, were you
5 carrying anything else?

6 A. I was either carrying or wearing my helmet.

7 Q. Anything else?

8 A. Not that I can remember.

9 Q. Did anyone accompany you from the camp to the
10 Backwater Bridge on the early morning of November 21?

11 A. No.

12 Q. Okay. And when you were at the Backwater Bridge
13 between 2:00 and 4:00 a.m. on November 21, were there
14 any protesters there that you knew?

15 A. I don't know.

16 Q. Do you know the names of any of the protesters
17 that were there with you between 2:00 a.m. and 4:00 a.m.
18 on November 21?

19 A. I wasn't there with anybody.

20 Q. Okay. So when you were on the bridge on November
21 21, between 2:00 and 4:00 a.m., were you there by
22 yourself?

23 A. Well, it depends.

24 Q. I'm talking about during that entire time period;
25 was there anybody else there with you?

1 A. There were other people there, but I wouldn't say
2 they were with me.

3 Q. Okay. And do you know the names of any of the
4 other people there between 2:00 and 4:00 a.m. on
5 November 21?

6 A. I know that Richard Fisher says that he was there
7 at one of the campfires.

8 Q. And anyone else that was either at the campfires
9 or on the bridge with you between 2:00 a.m. and
10 4:00 a.m. that you can tell us the names of?

11 A. No.

12 Q. Have you, have you ever talked to anyone who has
13 indicated they were an eyewitness to the incident where
14 you were injured on November 21?

15 A. Yes.

16 Q. Okay. And who was that?

17 A. Well, there were several people who reached out
18 saying they were witnesses, Brandi King.

19 Q. Okay. And when did you speak with Ms. King
20 following the incident?

21 A. I don't think I ever spoke with her.

22 Q. And how did you communicate with her, and, and
23 how did she let you know she was there when the incident
24 occurred?

25 A. She sent me a message.

1 Q. How did she send you a message?

2 A. On Facebook.

3 Q. And what did she say in the message?

4 A. That she was there during the incident.

5 Q. Did she tell you what she saw, if anything?

6 A. I don't remember.

7 Q. Do you still have that Facebook message?

8 A. Yes.

9 Q. Okay. Did you turn it over to your attorneys?

10 A. Yes.

11 MR. BAKKE: And, Ben, I don't think that's
12 been produced. Has it?

13 MR. STOLL: You know, Randy, I don't think
14 it has been produced. I, we can discuss that off the
15 record in more detail if you want, but I will certainly
16 go and look for it again and produce it if we still have
17 it.

18 MR. BAKKE: Okay.

19 Q. Okay. Anyone else -- and, and was Brandi King
20 someone you understand, Ms. Wilansky, who was involved
21 in transporting you to, from the protest location to the
22 Prairie Knights Casino immediately following the
23 incident?

24 A. Yes.

25 Q. And was the other person Steve Martinez who

1 transported you?

2 A. That's my understanding.

3 Q. Okay. Was there anybody else in the vehicle that
4 transported you from the protest site to Prairie Knights
5 after the incident?

6 A. No.

7 Q. Okay. We were talking about eye-, eyewitnesss.
8 Has anybody else, other than Brandi King, indicated to
9 you that they were an eyewitness to the incident?

10 A. I believe there were a few other people.

11 Q. Who are the few other people?

12 A. I don't remember.

13 Q. Do you have the contact information from them?

14 A. No.

15 Q. Do you know a Stephen Joachinson,
16 J-o-a-c-h-i-n-s-o-n?

17 A. I wouldn't say I know him.

18 Q. What would you say?

19 A. I know that he was a witness.

20 Q. And how do you know that?

21 MR. STOLL: Sophia, I'll just caution you
22 not to disclose any attorney-client communications in
23 your answer to that question. Assuming you can answer
24 it without that, go ahead and answer it.

25 A. Right. I mainly know through my attorneys, but I

1 believe he also did interviews.

2 Q. Have you ever spoken to Mr. Joachinson about the
3 incident or the events leading up to the incident?

4 A. Not that I can remember.

5 Q. Have you ever communicated with Mr. Joachinson
6 either by Facebook or e-mail or text or any means of
7 communication regarding the events leading up to the
8 incident or the incident itself?

9 A. Not as far as I can remember.

10 Q. So, turning back to between 2:00 a.m. and
11 4:00 a.m., and, and, incidentally, before I go there, in
12 terms of eyewitnesss, anybody else other than Mr.
13 Joachinson and Ms. King that you understand may have
14 been eyewitnesss to the incident?

15 A. There were a few other people who claimed to be
16 witnesses, some of them credible, some not so credible
17 but I don't remember specifically.

18 Q. Okay. Did any of these people who claim to be
19 eyewitnesses contact you, or did you contact them in any
20 form?

21 A. Like I said, I think there were a few other
22 people who messaged me claiming to be witnesses.

23 Q. Okay. And you, was that by Facebook?

24 A. Yes.

25 Q. Okay. And would you still have those messages

1 from those other individuals who claim to be eyewitnesses
2 to this incident?

3 A. Yes.

4 Q. And have those been turned over to your attorney?

5 A. Yes.

6 MR. BAKKE: And, Ben, once again, we'll have
7 that conversation off the record but we're obviously
8 requesting them.

9 MR. STOLL: Absolutely. I believe we have
10 disclosed, well, I can tell you we've disclosed
11 everything that I was able to find, and I'm pretty sure
12 that that includes at least somebody who claimed to be
13 an eyewitness, but we can talk more if there's
14 additional searches you'd like me to do.

15 Q. Ms. Wilansky, between 2:00 a.m. and 4:00 a.m.,
16 what do you recall being physically present on the
17 Backwater Bridge at that time? And I'm not talking
18 about people. I'm talking about property or items or
19 vehicles.

20 MR. STOLL: Objection, vague.

21 A. Well, there was the barrier. There was a large
22 vehicle next to the barrier. There was a lot of stuff.

23 Q. Okay. And when you say "a lot of stuff," what do
24 you mean by that?

25 A. Bullets, medic supplies, pieces of plywood and

1 rubber bin lids, and people were actually cleaning up
2 all of the random objects when I arrived.

3 Q. On the bridge?

4 A. Yes.

5 Q. And when you say "people," were those other
6 protesters or somebody else?

7 MR. STOLL: Objection, calls for
8 speculation.

9 A. I wouldn't say they were protesting at the time.
10 They were cleaning up.

11 Q. Yeah. Were, were people that were on the south
12 side of the barricade, did you consider those
13 individuals there on the early morning hours of November
14 21 to be protesters?

15 A. Not necessarily.

16 Q. So, for instance, was there someone who was there
17 from some tribal entity from the Standing Rock
18 Reservation such as people that were not affiliated with
19 the protest, or was everyone there affiliated in some
20 way with the protest to your understanding?

21 MR. STOLL: Objection, vague and calls for
22 speculation.

23 A. I don't know that presence there constitutes
24 affiliation.

25 Q. Well, maybe I can ask it a different way. Did

1 you understand the people on the bridge on November 21
2 in the early morning hours to be opposed to the DAPL
3 pipeline?

4 MR. STOLL: Objection, calls for
5 speculation.

6 A. I would have no way of knowing that from their
7 actions at the time.

8 Q. So the people cleaning up random objects on the
9 bridge, what were they using to, to clean up the
10 objects?

11 A. They were collecting them and piling them up. I,
12 and I think somebody might have come with a vehicle to
13 take objects back to camp.

14 Q. Are you talking about the pieces of plywood,
15 those type of things that could potentially be reused?

16 A. Not specifically, just any objects that were
17 around.

18 (Defendant's Exhibit #2 was marked for identification.)

19 Q. I'm going to show you what's been marked as
20 Exhibit 2. This is a photograph taken from the law
21 enforcement side on November 21, 2016, after the
22 incident. You can see it's daylight hours. What you
23 described as the barrier, does that show up in the
24 photograph?

25 A. Yes.

1 Q. Okay. And that, that's the concrete berms and
2 the razor wire shown on the photograph?

3 A. Yes.

4 Q. And then you described the large vehicle that you
5 said is next to the barrier. Is that the burnt out
6 truck we see on Exhibit 2?

7 A. Yes.

8 Q. So it's a, appears to be a dump truck of some
9 type; is that correct?

10 A. I don't know that much about vehicles.

11 Q. And was there any other vehicle on the bridge on
12 the early morning hours of November 21 other than this
13 burnt out truck?

14 A. Can you repeat the question.

15 Q. Yeah. Was there any other vehicles on the bridge
16 between 2:00 a.m. and 4:00 a.m., when you were there,
17 other than this burnt out truck on Exhibit 2?

18 A. I think when I first got there that people who
19 were cleaning up put things in a vehicle to send back to
20 camp.

21 Q. Okay. Was that vehicle on the bridge itself, or
22 was it off the bridge on the south side?

23 A. I don't remember.

24 Q. And did that vehicle that you think may have been
25 there when you arrived be fairly shortly after you got

1 back to the Backwater Bridge around 2:00 a.m.?

2 A. Yes.

3 Q. So the only vehicle that would have been on the
4 Backwater Bridge in, say, the hour or so before the
5 incident would have been this burnt out truck shown on
6 Exhibit 2?

7 A. As far as I can remember.

8 Q. And is the burnt out truck in the same position
9 you would call it being in prior to and at the time of
10 the incident?

11 A. I don't know. I'm looking at it backwards.
12 Probably.

13 Q. Okay. And when you say "looking at it
14 backwards," you would have been, your viewpoint would
15 have been from the south looking north, and this
16 photograph is from the north looking south. Correct?

17 A. Right.

18 Q. Do you recall whether that truck was chained to
19 anything at the time of your incident and prior to that
20 on November 21?

21 A. Yes.

22 Q. Okay. Tell me what you remember about that?

23 A. I remember somebody saying that it was chained to
24 the barrier.

25 Q. And when you say "the barrier," you're talking

1 about the concrete berms, what they call Jersey
2 Barriers, that's shown on the bottom of Exhibit 2?

3 A. Yes.

4 Q. And is that something you recall observing
5 yourself, was that the burnt out truck was chained to
6 the, the barrier?

7 A. I didn't get a very good look at it.

8 Q. At the chains?

9 A. Right.

10 Q. Okay. But you, you, you did see that there were
11 chains that were attached to the burnt out truck that
12 went to the barrier?

13 A. I could see that there were chains under the
14 truck.

15 Q. And that's something you saw on November 21
16 between 2:00 a.m. and 4:00 a.m.?

17 A. Yep.

18 Q. And you understood, at the time, those chains
19 were attached on one end to the truck and on the other
20 end to the concrete barrier?

21 A. I didn't get a very good look at the other end.

22 Q. When you say "the other end," are you talking
23 about the, the front end of the truck that we see in the
24 photograph which would be the right passenger side near
25 the bumper?

1 A. I mean that I don't remember clearly seeing where
2 the chain was attached on the barrier.

3 Q. Do you recall whether there was more than one
4 chain that ran from the, being attached to the truck to
5 being attached to the barrier on November 21?

6 A. No. I remember seeing at least one.

7 Q. And did you understand that it was either law
8 enforcement or some public agency in North Dakota that
9 had attached the chain between truck and the barrier?

10 MR. STOLL: Objection, calls for
11 speculation.

12 A. Not necessarily.

13 Q. Okay. So who did you think the other possibility
14 was that someone who might have attached that chain or
15 chains?

16 A. I didn't think about who put the chain there.

17 Q. Well, were the chains there, to you
18 understanding, to prevent that truck from being moved?

19 MR. STOLL: Objection, lack of foundation.

20 A. I don't know what the purpose of the chains was.

21 Q. Was it your understanding that, that one of the
22 things that the protesters were trying to accomplished
23 on November 20 during the protest was the removal of
24 this burnt out truck from the Backwater Bridge?

25 A. I was aware that some people attempted to move

1 the truck.

2 Q. The one that we see in Exhibit 2. Correct? Yes?

3 A. Yes.

4 Q. Okay. And what did you know about that, the
5 attempts by the protesters on November 20 to try to
6 remove the truck shown on Exhibit 2 from the Backwater
7 Bridge?

8 A. Can you repeat the question.

9 MR. BAKKE: Jesse, can you read it back.

10 (The requested portion of the record was
11 read by the reporter.)

12 A. I heard that they were not able to because it
13 would change the barrier.

14 Q. Do you recall who told you that?

15 A. No.

16 Q. So you understood a goal of the protesters on
17 November 20 was to remove this burnt out truck from the
18 Backwater Bridge. Correct?

19 MR. STOLL: Objection, vague and
20 mischaracterizes prior testimony.

21 A. I was aware that some people were trying to move
22 the truck, but I wouldn't characterize that as a goal of
23 the protesters as a whole.

24 Q. And, and why were some people trying to remove
25 the burnt out truck from the Backwater Bridge?

1 MR. STOLL: Objection, calls for
2 speculation.

3 A. I'm not entirely sure what their motivations
4 were.

5 Q. Well, did you learn or understand, their
6 motivation was to, to try to make it easier for them to
7 breach or come through the Backwater Bridge?

8 MR. STOLL: Objection, lacks foundation.

9 A. No.

10 Q. Did you learn that on November 20 there was a
11 second burnt out truck on the Backwater Bridge that the
12 protesters were successful in removing?

13 A. Yes.

14 MR. STOLL: Objection.

15 MR. BAKKE: Did you get her answer, Jesse?

16 THE STENOGRAPHER: Nope. What was the
17 answer?

18 MR. BAKKE: She said yes, is --

19 THE STENOGRAPHER: Okay. Thank you.

20 A. Yes.

21 Q. And what did you learn about that, the removal
22 of, of one of the burnt out trucks by the protesters on
23 November 20?

24 A. That they successfully moved it.

25 Q. Okay. Did you have an understanding of why the

1 protesters removed one of the two burnt out trucks from
2 the Backwater Bridge on November 20?

3 MR. STOLL: Objection, vague.

4 A. I don't know what the motivations were of the, of
5 whoever did that.

6 Q. Was it your understanding that on November 20,
7 2016, that law enforcement was opposed to having the
8 burnt out trucks removed from the Backwater Bridge?

9 MR. STOLL: Objection, lacks foundation.

10 A. Not necessarily.

11 Q. Well, when you say, "Not necessarily," is it your
12 testimony that you were unaware that law enforcement
13 wanted both of these burnt out trucks to stay on the
14 Backwater Bridge on November 20 and 21?

15 MR. STOLL: Objection, lacks foundation.

16 A. I wouldn't assume that law enforcement would want
17 burnt out trucks to remain on a roadway.

18 Q. Okay. So your, your assumption on November 20
19 and 21 was that law enforcement would be, perhaps in
20 favor of the protesters removing the burnt out trucks
21 from the Back-, Backwater Bridge?

22 MR. STOLL: Objection, vague and misstates
23 prior testimony.

24 A. I don't know what they were opposed or in favor
25 of.

1 Q. The, the chains that were attached to the burnt
2 out truck that was there on November 21 when you were at
3 the Backwater Bridge, was it your understanding those
4 chains were put in place by law enforcement?

5 MR. STOLL: Objection, lacks foundation.

6 A. I don't know who put them there.

7 Q. Did you understand the purpose of the chaining
8 between the truck and the barrier was to prevent its
9 removal from the Backwater Bridge?

10 MR. STOLL: Objection, lacks foundation.

11 A. I don't know why the chains were there.

12 Q. In Exhibit 2, we can see the right-front of the
13 truck. Do you see that there, the front bumper?

14 A. Yes.

15 Q. Okay. And on the far left-hand side from the
16 view we're looking at, we can see the right-front bumper
17 of that truck. Correct?

18 A. The truck's right bumper?

19 Q. Yes.

20 A. Yes.

21 Q. Can you tell me what the distance was between the
22 right-front pumper of that truck and the closest
23 concrete barrier?

24 A. It likes like a few feet to me.

25 Q. And then from the, the front of the truck, the

1 right-front to the left-rear or the back end of the
2 truck, can you tell me, approximately, how far that was?

3 A. No.

4 Q. Were you at this burnt out truck on November 21
5 prior to the incident?

6 MR. STOLL: Objection, vague.

7 A. I was next to it.

8 Q. And when you say "next to it," tell, tell me what
9 you mean by that.

10 A. I was near the front-left corner of the truck.

11 Q. And so, just so we're clear here, left,
12 front-left would be the driver's side of the truck?

13 A. Yes.

14 Q. And that would be close to where, on this
15 photograph, we see the "NO DAPL" sign attached?

16 A. Yep. That's the corner.

17 Q. Okay. Okay. And when you say you were near the
18 corner where the "NO DAPL" sign appears on the
19 photograph, does that mean you're right next to the "NO
20 DAPL" sign location?

21 MR. STOLL: Objection, vague.

22 A. That sign is on the front of the truck.

23 Q. Correct. And I, I'm trying to understand your,
24 your position when you say you were near the left-front
25 corner near the "NO DAPL" sign. The, the handicap we

1 have here is, typically, in depositions, we'd physically
2 be in the same room, and I could have you draw it for
3 me, but because of having to do this by zoom, it's more
4 cumbersome to try, for me to understand where you were
5 at, so what I'm trying to understand is, in relation to
6 the "NO DAPL" sign on November 21, how close were you to
7 that sign?

8 A. A few feet but not in front of the truck.

9 Q. Okay. So when you say "a few feet," were you
10 hugging the side, the driver's side of that vehicle, or
11 were you more straight out from the left-front bumper?

12 MR. STOLL: Objection to form, vague.

13 A. I was close to the corner. I am not sure if I
14 was more out from the truck or hugging the driver's
15 side.

16 Q. Okay. But you were close enough that you could
17 touch the driver's side front of the burnt out truck?

18 A. I think so.

19 Q. I'm sorry?

20 A. I think so.

21 Q. Okay. And how long were you in this location by
22 the left-front of the burnt out truck on November 21?

23 A. That's where I was for a long time.

24 Q. Okay. And when you say "a long time," tell me
25 what a long time is?

1 A. The same discussion we had before.

2 Q. Well, was it five minutes, was it a half an hour,
3 was it an hour?

4 A. I can estimate that I was near that corner for
5 half an hour to an hour and a half, approximately, but I
6 didn't stay in the exact same place the entire time,
7 necessarily.

8 Q. Were you behind anything when you were at the
9 location by the "NO DAPL" sign by the truck?

10 MR. STOLL: Objection, vague.

11 A. Other than the truck?

12 Q. Yes.

13 A. There was at least one metal sheet.

14 Q. And was that metal sheet being used as a shield?

15 MR. STOLL: Objection to form.

16 A. I don't know how people had been using it.

17 Q. Well, was it being held by someone or more than
18 one person while you were near the "NO DAPL" sign by the
19 truck?

20 A. I can't remember if anyone was holding it up or
21 not.

22 Q. Well, was it something that was attached to the
23 ground or attached to the truck, or was it something
24 that had been physically carried that night by one or
25 more protesters to that location?

1 MR. STOLL: Objection, calls for
2 speculation.

3 A. I don't know how it got there, but it was propped
4 upright.

5 Q. When you say "propped upright," by one or more
6 protesters?

7 A. I can't remember if it was held by people or if
8 it was just propped up, freestanding.

9 Q. And, and how, how big was this metal sheet?

10 A. About the size of a typical door.

11 Q. When you say "a typical door," you mean a, what's
12 sometimes referred to as a, a man door like you might
13 have in your, your home or in an office that you walk
14 through?

15 A. I have never heard it referred to as a man door
16 but yes.

17 Q. So if a door is roughly seven feet high, would
18 that be the size of this metal shield that was near the
19 left-front of the, of the truck on November 21?

20 A. Approximately.

21 Q. And was it roughly four feet wide?

22 A. Approximately.

23 Q. And did it have something on the bottom like a
24 stand or something that would allow it to stay
25 stationary on its own?

1 A. Not that I remember.

2 Q. And was it being used such that the, like a door
3 in the respect that the long end, the seven-foot end
4 would be from the ground up?

5 A. Yes.

6 Q. And the four-foot distance would have been the
7 sideways or a horizontal distance of the shield?

8 A. Yes.

9 Q. Okay. And was this something that, while you
10 were at the left-front of the truck, you were hiding
11 behind this shield?

12 MR. STOLL: Objection to form.

13 A. When?

14 Q. In that time period where you told me that you
15 were at the left-front of the burnt out truck for
16 between a half an hour to an hour and a half until
17 shortly prior to when the incident occurred. Correct?

18 MR. STOLL: Objection to form.

19 A. I wouldn't call it hiding.

20 Q. Were you behind the metal shield during that time
21 period, the half an hour to an hour and a half?

22 MR. STOLL: Objection to form.

23 A. I was behind it at some point.

24 Q. Well, let's, let's take the time period, say,
25 within a, a minute or two of when the incident occurred.

1 Up until a minute or two before the incident occurred,
2 perhaps less than that, were you behind this metal
3 shield?

4 MR. STOLL: Objection to form.

5 A. I was behind it when I was shot in the upper arm.

6 Q. Had, had you been in that location for that half
7 an hour to an hour and a half before you were shot in
8 the arm?

9 A. I was near that spot, but I, I don't think I was
10 behind it the entire time.

11 Q. Where else were you during that time period?

12 A. A few feet south or west.

13 Q. During that half an hour to an hour and a half
14 that you're behind the shield or a few feet south or
15 west, were there other protesters in that location?

16 MR. STOLL: Objection to form.

17 A. There were several people who came near me at
18 various points.

19 MS. WILANSKY: Should we take lunch?

20 MR. STOLL: Yeah. We've been going about an
21 hour, Randy.

22 Q. Let, let, let me finish, let, let me finish up
23 with my question here.

24 A. Okay.

25 Q. When you said there were several people who came

1 near me at various points when you were behind the
2 shield or in that area, do you know the names of any of
3 those individuals?

4 MR. STOLL: Objection to form.

5 A. I know that the last one was Stephen Joachinson.

6 Q. Okay. And so was there a time period that it was
7 just you and Ms. Joachinson behind the shield shortly
8 prior to when the incident occurred?

9 MR. STOLL: Objection to form.

10 A. Can you repeat the question.

11 Q. Yes. Was there a time shortly prior to the
12 incident where Mr. Joachinson and you were the only two
13 people behind the shield or in that general location?

14 MR. STOLL: Objection to form.

15 A. Shortly before the incident, we were the only
16 people near the metal sheet.

17 Q. And, and how long were Mr. Joachinson and you the
18 only two people behind or near the metal sheet?

19 MR. STOLL: Objection to form.

20 A. He was there at least a few minutes.

21 Q. Okay. When you say at least, "at least a few
22 minutes," can you give me a better estimate than that?
23 Was it five minutes, was it ten minutes, was it
24 15 minutes that just Mr. Joachinson and you were behind
25 the metal sheet?

1 MR. STOLL: Objection to form.

2 A. I don't know how many minutes. It didn't feel
3 like a very long time.

4 Q. And, and before you got to the Bridge on November
5 21 and spent that time, the half an hour to an hour and
6 a half behind or in the area of the, the metal shield,
7 was that metal shield there on November 20 at any point
8 in time while you were on the Backwater Bridge?

9 MR. STOLL: Objection to form and calls for
10 speculation.

11 A. I don't know.

12 Q. Okay. You never saw the metal sheet there on the
13 front of the, left-front of the burnt out truck on
14 November 20, 2016. Did you?

15 A. I don't remember, specifically.

16 Q. Do you know who brought or put the metal sheet on
17 of left-front of the burnt out truck on November 21?

18 A. No.

19 Q. Okay.

20 MR. BAKKE: We can go off the record.

21 THE VIDEOGRAPHER: We are off the record at
22 1:27 p.m.

23 (Recess taken at 1:27 p.m.)

24 THE VIDEOGRAPHER: We are back on the record
25 at 2:17 p.m.

1 Q. Okay. Ms. Wilansky, before we broke for lunch,
2 we were talking about the Deposition Exhibit 2, which is
3 the burnt out truck and to the south of the barrier, and
4 that metal sheet you described, can, can you tell me
5 what that metal material was that it was made out of?

6 A. No.

7 Q. Okay. I mean, do you know what corrugated tin is
8 or corrugated metal that's kind of wavy, like you might
9 see on a silo or a farm structure or ranch structure?

10 A. Vaguely.

11 Q. Okay. I mean, was this a, a, a metal sheet that
12 was flat?

13 A. As opposed to corrugated?

14 Q. Sure. Or bent or curved or...

15 A. I think it may have been corrugated.

16 Q. Okay. And was it, what you're calling the, the
17 metal sheet, was it all metal, was it attached to
18 plywood, was there any wood portion of it?

19 A. I don't think so.

20 Q. Was there a tarp or something over it or covering
21 part of it?

22 A. I think so.

23 Q. Okay. And, and what do you recall about the tarp
24 or the material covering all or part of the metal sheet?

25 A. I don't remember specifically. I think it was a

1 normal tarp.

2 Q. Okay. Like out of some sort of a plastic
3 material or was it cloth?

4 A. Plastic, I think.

5 Q. Was it blue in color?

6 A. Probably.

7 Q. Okay. And was the blue-in-color side of the
8 metal sheet the side that was facing law enforcement?

9 A. You mean the tarp?

10 Q. Yes.

11 A. I think the tarp was on the side of the metal
12 sheet that was closer to the truck and further from me.

13 Q. Well, what I'm asking is, you told me that that
14 metal sheet was being held up, or was up and down with
15 one side facing towards law enforcement. Correct?

16 A. Well, I don't know that law enforcement were all
17 gathered in one place.

18 Q. Right. But you were behind that metal sheet at
19 times. Correct?

20 MR. STOLL: Objection to form.

21 A. That depends on your perspective.

22 Q. Well, from your perspective, you were behind it,
23 correct, at times in that half an hour to an hour and a
24 half prior to the incident?

25 MR. STOLL: Objection to form.

1 A. It was between me and the barrier.

2 Q. Okay. And was the blue tarp covering both sides
3 of the metal sheet or just one side?

4 A. I'm not a hundred percent sure.

5 Q. Okay. Was the blue tarp covering the entire
6 metal sheet or just part of it?

7 A. I'm not sure.

8 Q. Were there handles on the metal sheet on the side
9 you were on that would allow someone to hold it up?

10 A. I don't remember.

11 Q. Was the metal sheet, during the half an hour to
12 an hour and a half you were either behind it or near it,
13 flush to the ground?

14 MR. STOLL: Objection to form.

15 A. Flush like the bottom of it --

16 Q. Right.

17 A. -- on the ground?

18 Q. Or were you, or were you or another protester
19 holding it up in the air?

20 A. I believe it was flush with the ground.

21 Q. Were you trying, at times in that half an hour to
22 an hour and a half that you were at or near the metal
23 shield, trying to conceal yourself?

24 MR. STOLL: Objection to form.

25 A. I wouldn't characterize it as concealing.

1 Q. Okay. Were you trying to hide from law
2 enforcement so they could not see you behind the metal
3 sheet?

4 A. It wasn't my intention to hide.

5 Q. During that half an hour to an hour and a half
6 you're behind our near the metal sheet at the left-front
7 of the burnt out truck, did you have any conversations
8 with anyone on the law enforcement side of the
9 barricade?

10 A. No.

11 Q. Did any of the other protesters, during that time
12 period, the half an hour to an hour and a half you were
13 at the left-front of the burnt out truck, have any
14 conversations that you overheard with law enforcement?

15 A. I don't remember.

16 Q. You don't recall any conversations between
17 protesters and law enforcement while you were at the
18 left-front of the burnt out truck; is that correct?

19 A. That's correct.

20 Q. Why were you there at the left-front of the burnt
21 out truck for a half an hour to an hour and a half?

22 A. I was there to be present and maintain a sort of
23 vigil until more people arrived when it was light out.

24 Q. Well, was there some concern that, if you weren't
25 present, that something was going to happen?

1 MR. STOLL: Objection, vague.

2 A. I don't know.

3 Q. What were you doing in the half an hour to the
4 hour and a half that you were at the left, left-front of
5 the burnt out truck?

6 A. Most of the time, I was just standing there
7 maintaining the vigil.

8 Q. Maintaining the what?

9 A. The vigil, just being present.

10 Q. Okay. What was the purpose of your being present
11 in that location, why that spot?

12 A. There were already people in that spot who left
13 and I took their place.

14 Q. Well, if you wanted to be present for the protest
15 activities the next morning when it got light out, there
16 were one or more campfires on the south side of the
17 bridge at that time during the night. Correct?

18 MR. STOLL: Objection to form.

19 A. I don't remember if there were still campfires on
20 the south side.

21 Q. What was Mr. Joachinson doing while you were
22 present at the burnt out truck for a half an hour to an
23 hour and a half?

24 A. Well, I don't know what he was doing for the
25 entire duration of that time period other than when he

1 was near me.

2 Q. Can you see, on the screen now, Deposition
3 Exhibit 13?

4 (Defendant's Exhibit #13 was marked for identification.)

5 A. Yes.

6 Q. Okay. And do you recognize that as Mr.
7 Joachinson?

8 A. I can't usually recognize people unless I have
9 met them several times.

10 Q. So you're not sure?

11 A. Correct.

12 Q. What discussions, if any, did you have with Mr.
13 Joachinson when you were at the left-front of the burnt
14 out truck from a half hour to an hour and a half?

15 A. I don't remember exactly but I believe we were
16 generally discussing the events of November 20th.

17 Q. Tell me what you recall discussing with Mr.
18 Joachinson?

19 A. Well, because we were standing near the truck, we
20 talked about how people had moved the other truck and
21 tried to move the one that was still there.

22 Q. Anything else you can recall talking to Mr.
23 Joachinson about other than the events of November 20?

24 A. No.

25 Q. If we take the time period you're at the

1 left-front of the truck, between a half an hour and hour
2 and a half, were there any other protesters in that
3 location during any part of that time?

4 A. There had been several people who came up and
5 went back to the fires.

6 Q. When, when you say "several," how many is
7 "several"?

8 A. I don't know.

9 Q. Well, is it, is it two people, is it ten people,
10 is it a hundred people?

11 A. At least two people.

12 Q. Can you tell me what the maximum number of people
13 in that hour and a half prior to the incident were in
14 the location of the burnt out truck?

15 A. There probably weren't more than ten people in
16 that entire time period.

17 Q. And did they come in and leave intermittently so
18 it wasn't ten people all at once?

19 A. Yes.

20 Q. And for what time period prior to the incident
21 was it just Mr. Joachinson and you that were in the
22 location of the left-front by the metal sheet?

23 A. A few minutes.

24 Q. When you say "a few minutes," is that five
25 minutes, is it ten minutes or is that twenty minutes?

1 A. I don't remember but I would say on the shorter
2 end.

3 Q. So do you think it was five minutes that it was
4 just Mr. Joachinson and you there behind the metal sheet
5 there in that location?

6 A. I don't know.

7 Q. Did, did Mr. Joachinson or you, at any point in
8 time, move further towards the barricade than being
9 behind the metal sheet?

10 A. Can you repeat the question.

11 Q. Yes. During the time period Mr. Joachinson and
12 you are at the left-front of the, the burnt out truck,
13 did you ever get any closer, or did Mr. Joachinson get
14 any closer than that metal shield?

15 MR. STOLL: Objection to form.

16 A. Not that I saw.

17 Q. The, the up to or, or the not more than ten
18 people that were on the bridge in the hour and a half
19 before your incident occurred, were those people also in
20 the vicinity of the burnt out truck?

21 A. Yes, generally.

22 Q. And, and were they all behind the burnt out
23 truck, these up to ten other people in the hour and a
24 half before the incident?

25 MR. STOLL: Objection to form.

1 A. I wouldn't say behind.

2 Q. Okay. What would you say; where were they?

3 A. I vaguely remember people standing more towards
4 the center of the bridge, like west of the truck.

5 Q. Okay. So behind the truck to the south?

6 MR. STOLL: Objection to form.

7 A. Not necessarily to the south.

8 Q. Okay. So where do you remember other protesters
9 being located in relation to the truck in the hour and a
10 half before the incident?

11 A. Relatively close to the corner, maybe a little to
12 the left of the truck.

13 Q. So when you say the corner of the truck, which
14 corner?

15 A. The front driver side corner.

16 Q. Okay. And so were those people, if we look at
17 Deposition Exhibit 2, showing the burnt out truck, are
18 you saying that that, at some point in the hour and a
19 half before the incident, there were people, as we look
20 at the photograph, positioned on the right where we see
21 the road surface of the bridge?

22 A. Yes.

23 Q. Okay. And how, when was the last time there were
24 any people there, prior to the incident, in that
25 location?

1 A. I think Stephen Joachinson might have been in
2 that area at the time of the incident.

3 Q. Anybody else that you recall being in that area
4 at any time in that hour and a half before the incident?

5 A. I remember there being at least a couple of times
6 that one or two people came up to that area.

7 Q. Okay. And when was the last time before the
8 incident where you recall one or two people coming up to
9 the area to the west of the burnt out truck?

10 A. Other than Stephen Joachinson?

11 Q. Correct.

12 A. I don't remember specifically.

13 Q. Was there somebody underneath the burnt out truck
14 while you were at the left-front of the truck during
15 that half an hour to an hour and a half?

16 A. No.

17 MR. STOLL: That, that cut out for a second.
18 Can you repeat that question for me.

19 MR. BAKKE: Did, did you get her answer,
20 Jesse?

21 MS. WILANSKY: Jesse, you're on mute.

22 THE STENOGRAPHER: Sorry. I got her saying,
23 as saying, "No." Is that correct?

24 MR. STOLL: Well, I just, can I hear the
25 question again?

1 THE STENOGRAPHER: Sure.

2 (The requested portion of the record was
3 read by the reporter.)

4 Q. And your testimony is, Ms. Wilansky, during that
5 entire time, there was no one underneath the truck?

6 A. Correct.

7 Q. You were never under the truck?

8 A. I was never under the truck.

9 Q. Was Mr. Joachinson ever under the truck?

10 A. No.

11 Q. Did, did you attempt to do anything to try to
12 remove the chains or chain that was attaching, attached
13 to the truck with the barrier?

14 A. No.

15 Q. Did Mr. Joachinson try to do that?

16 A. No.

17 Q. Did you see anyone trying to remove or detach the
18 chain or chains underneath the truck while you were near
19 the truck on November 21?

20 A. No.

21 Q. If law enforcement, various law enforcement
22 witnesses testify that they observed one or more people
23 underneath the truck in that time period prior to the
24 explosion occurring, are they wrong?

25 MR. STOLL: Objection to form.

1 A. Yes.

2 Q. And if they heard someone behind the shield, the
3 metal shield working on the chains and could hear the,
4 the sound of chains being manipulated under the truck or
5 on the truck, are they wrong about that?

6 MR. STOLL: Objection, vague, lacks
7 foundation.

8 A. Yes.

9 Q. I, I want to talk to you about less-lethal
10 munitions, and you identified, before, less-lethal
11 munitions that you are familiar with. Correct?

12 A. Yes.

13 Q. And prior to the DAPL protests, had you ever been
14 at an event where less-lethal munitions were used?

15 A. No.

16 Q. Prior to the DAPL protest, did you have any
17 training with less-lethal munitions?

18 MR. STOLL: Objection, outside of the scope
19 of the deposition. I'm going to instruct the witness
20 not to answer that.

21 MR. BAKKE: Well, this goes to the very
22 heart of the issues that Judge Traynor has identified,
23 which, Issue No. 1, "Whether Defendant, Officer Doe used
24 an explosive less-lethal munition at the time and place
25 of Ms. Wilansky's injury." Obviously, her knowledge

1 base, experience, expertise, if any, in less-lethal
2 munitions goes directly to the heart of that issue. Is
3 that your position, I can't ask her about less-lethal
4 munitions and whether it was an explosive less-lethal
5 munition?

6 MR. STOLL: Generally, I object to you
7 asking her about her prior experiences prior to the
8 protest, but if what you're getting at is her
9 credibility as somebody who can judge less-lethal
10 munitions, I, I take your point, and I, I, I will let
11 her answer the question.

12 MR. BAKKE: Okay.

13 Q. So in relation to less-lethal munitions, prior to
14 the incident, did you have any training with less-lethal
15 munitions?

16 A. No.

17 Q. You don't hold yourself out as an expert on
18 less-lethal munitions. Do you?

19 A. No.

20 Q. You'd never gone to any training course on
21 less-lethal munitions. Correct?

22 A. Correct.

23 Q. Prior to the incident, did you research
24 less-lethal munitions?

25 A. I've read about them.

1 Q. Well, did you read about them before the incident
2 where you were injured in North Dakota?

3 A. Yes.

4 Q. Okay. And, and tell me about that.

5 A. I have, I've read a lot of things that describe
6 police's use of less-lethal munitions.

7 Q. Well, my, my question, though, is did you do it
8 before your incident on November 21, 2016, or has it
9 been since your injury?

10 A. Both.

11 Q. And so what research had you done on less-lethal
12 munitions prior to the incident on November 21, 2016?

13 A. I had read several zines.

14 Q. Several memes?

15 A. Zines.

16 Q. Spell that for me.

17 A. Z-i-n-e-s.

18 Q. And what are zines?

19 A. Pamphlets, essentially.

20 Q. Published by who?

21 A. I don't know.

22 Q. Do you know whether the zines you're referring to
23 were published by the manufacturer of the less-lethal
24 munitions?

25 A. I would imagine they were not.

1 Q. And I, I've just looked up zines on the internet,
2 not that that's necessarily, totally reliable, but,
3 according to Wikipedia, it says it's "a
4 small-circulation self-published work of original or
5 appropriated texts and images." Is that your
6 understanding of what a zine is?

7 MR. STOLL: I'm going to object to the form
8 of that question.

9 A. Can you repeat the question.

10 Q. I'll, I'll move on to something else. Prior to
11 the incident, had you ever reviewed any product
12 information from any product manufacturers of
13 less-lethal munitions?

14 A. No.

15 Q. What is it you're claiming caused your injury,
16 what type of less-lethal munition, if you know?

17 A. I don't know, specifically.

18 Q. Do you know whether or not -- or strike that.
19 Can you tell me whether there's more than one
20 possibility of less-lethal munition that you're claiming
21 caused your injury?

22 MR. STOLL: Objection, lacks foundation,
23 calls for speculation.

24 A. It depends how specific you're getting.

25 Q. Well, I, I'm asking you if, if you know. Is it,

1 is it a, is it a distraction device, is it the Blast CS
2 Grenade, is it a rubber bullet?

3 MR. STOLL: Objection to form, lacks
4 foundation.

5 A. It was a munition that exploded.

6 Q. You don't know what type?

7 A. Not specifically.

8 Q. Has anybody told you, and I'm excluding your
9 attorneys, has anybody told you that it was a
10 less-lethal munition that caused your injury?

11 A. Nobody would have to tell me because I already
12 knew.

13 Q. Okay. So I, that seems to contradict what you
14 just told me. So what did you already know was the
15 specific less-lethal munition that caused your injury?

16 MR. STOLL: Objection to the statement
17 before that question.

18 A. I'm not saying that I knew specifically which
19 type.

20 Q. Okay. And so that, my question that I asked,
21 then, other than your attorneys, has anybody told you
22 what specific type of munition it was, if it was a
23 munition, that caused your injury?

24 A. Not specifically.

25 Q. No, no medical doctor has told you that?

1 A. Not with complete specificity.

2 Q. Well, has, has any medical doctor told you that
3 your injury was caused by a less-lethal munition of some
4 type?

5 A. I don't remember.

6 Q. Has any expert, and I'm setting aside medical
7 doctors, has anyone who professes to be an expert on
8 less-lethal munitions or injuries caused by less-lethal
9 munitions ever told you that your injury was caused by a
10 less-lethal munition?

11 A. No. I don't think that somebody would make such
12 a certain statement without physical evidence.

13 Q. I'm, I'm going to show you, from your complaint
14 in this lawsuit, Paragraph 109. Do you see that on the
15 screen in front of you?

16 A. Yes.

17 Q. And paragraph 109 says, "Upon information and
18 belief, the explosive less-lethal munition was a
19 flash-bang. Upon information and belief, the flash-bang
20 was a defense technology low roll non-reloadable
21 distraction device." Do you believe that to be an
22 accurate statement?

23 MR. STOLL: Objection to form.

24 A. Yes.

25 Q. Okay. And where does that information come from?

1 MR. STOLL: I'm going to object. Sophia,
2 you can only answer that to the extent it doesn't reveal
3 attorney-client communications. Okay?

4 A. I can speak to the first sentence.

5 Q. Go ahead.

6 A. A flash-bang means that it exploded with light
7 and sound, and that's a bit of an umbrella term.

8 Q. Okay. And when you say "A flash-bang means it
9 exploded with light and sound," where does that
10 information come from, setting aside your attorneys?

11 MR. STOLL: Objection, vague. Do you mean,
12 how does she understand that term, or how does she know
13 that it exploded with light and sound?

14 MR. BAKKE: Either one, the question speaks
15 for itself.

16 MR. STOLL: Jesse, can, can you read back
17 the question for me.

18 (The requested portion of the record was
19 read by the reporter.)

20 MR. BAKKE: Actually, Jesse, the word was
21 "with light and sound," not without.

22 THE STENOGRAPHER: Oh, I'm sorry.

23 MR. BAKKE: Maybe I should rephrase it.

24 Q. Where does your information come from that a
25 flash-bang explodes with light and sound?

1 MR. STOLL: And, again, Sophia, just make
2 sure you don't reveal any attorney-client communications
3 in your answer.

4 A. I would say that that was common knowledge.

5 Q. I, I want to turn to the timeframe, and let,
6 let's back up to five minutes before the explosion
7 occurs. Tell me what you recall happening when you are
8 at or near the metal sheet at the left-front of the
9 burnt out truck from that point until when the explosion
10 occurs.

11 A. Five minutes.

12 Q. Yes.

13 A. I'm not sure if Stephen Joachinson was already
14 there five minutes before. I was just standing in that
15 area, and when Stephen Joachinson got there, we were
16 talking. Then, at some point, the police started to
17 make announcements over the LRAD, and they started
18 shooting at us. They weren't able to hit me at first
19 but they shot Stephen Joachinson. A little bit later,
20 they shot me in the upper arm, which really hurt, and I
21 couldn't handle the pain of being shot in the upper arm,
22 so I shouted, I'm leaving, please don't shoot me, and I
23 began retreating to the south side of the bridge. I
24 passed a pile of plywood and bin lids, and I reached
25 towards the pile. Just as I started reaching, I was hit

1 in the left forearm with something that exploded on
2 contact, and I believe that takes us to the incident.

3 Q. Okay. So let me follow up. You said you were
4 talking with Mr. Joachinson, and, at some point, the
5 police started to make announcements over what you call
6 the LRAD. Correct?

7 A. Yes.

8 Q. Okay. And is the LRAD a very loud audio system
9 that can transmit voices at very high decibels so they
10 can be heard for a long distance?

11 A. Yes.

12 Q. And you knew that from being on the bridge and in
13 the area of the Backwater Bridge on November 20.
14 Correct?

15 A. I think I already knew what an LRAD was.

16 Q. Right. But had you heard it in use before you
17 heard it prior to the incident?

18 A. I believe so.

19 Q. And, and there had been a number of times when
20 law enforcement, on November 20, used the LRAD to
21 provide warnings and requests to the protesters.
22 Correct?

23 MR. STOLL: Objection to form.

24 A. On November 20th, I wasn't really focussed on the
25 sound from the LRAD.

1 Q. Was the LRAD in use on November 20?

2 MR. STOLL: Objection, calls for
3 speculation.

4 A. I believe so.

5 Q. Okay. And, and it was your understanding the
6 LRAD was used by law enforcement to provide warnings to
7 the protesters. Correct?

8 MR. STOLL: Objection to form.

9 A. Not necessarily.

10 Q. Well, what, what type of explanation -- well,
11 let, let me explore that answer first. When you say
12 "not necessarily," you agree law enforcement, prior to
13 your incident on November 21, used the LRAD system to
14 provide some warnings to the protesters. Correct?

15 MR. STOLL: Objection to form.

16 A. No.

17 Q. So is it your testimony you never heard any
18 warnings to the protesters from law enforcement from the
19 LRAD on November 20 or prior to the incident?

20 MR. STOLL: Objection, mischaracterizes
21 prior testimony.

22 A. I don't specifically remember hearing something I
23 would characterize as a warning.

24 Q. Well, what do you recall hearing from the LRAD
25 system prior to the incident on November 20?

1 A. I don't remember, specifically, what the
2 announcements were.

3 Q. So then let's turn to when you're at the, the
4 metal sheet with Mr. Joachinson, and there's
5 announcements being made over the LRAD by law
6 enforcement, what were they saying?

7 A. I believe the gist of it was, get out from under
8 the truck.

9 Q. Okay. And did you say anything in response?

10 A. I don't remember.

11 Q. Did Mr. Joachinson say anything in response to
12 law enforcement saying, over the LRAD, get out from
13 under the truck?

14 A. I believe so.

15 Q. And do you recall what he said?

16 A. I think the gist of it was, there's nobody under
17 the truck.

18 Q. Okay. Is there anything else that, that, that
19 law enforcement said over the LRAD before any shooting
20 occurred?

21 A. I don't remember and I'm not even sure the, the
22 first announcement was before any shooting occurred.

23 Q. Did, did you understand that the, what the police
24 were saying on the LRAD was directed towards Mr.
25 Joachinson and you?

1 A. No.

2 Q. Okay. Was there anybody else by the burnt out
3 truck at, on the Backwater Bridge at the time law
4 enforcement gave the announcement over the LRAD which
5 you heard?

6 A. No.

7 Q. Okay. So you can't tell me how long it was
8 between the announcement over the LRAD and when any
9 shots of less-lethal munitions were taken by law
10 enforcement?

11 MR. STOLL: Objection to the form. I think
12 she just said that she didn't know what order they even
13 happened in.

14 A. Yeah. I'm not sure what order.

15 Q. Okay. So you don't know whether the warning were
16 directed by law enforcement to, get out from under the
17 truck, happened before or after any less-lethal
18 munitions were fired?

19 A. Right.

20 Q. You said, "They were not able to hit me at
21 first." Were you concealed behind the shield, the metal
22 shield at that point?

23 MR. STOLL: Objection to form.

24 A. I wouldn't say I was concealed behind the metal
25 sheet.

1 Q. Were you out in the open, behind nothing?

2 MR. STOLL: Objection to form.

3 A. From whose perspective?

4 Q. From the perspective, your perspective, looking
5 towards the barricade, were you out to the west away
6 from the metal sheet?

7 A. I was not out to the west away from the sheet.

8 Q. So when you say they were not able to hit you at
9 first, was there something that told you they were
10 trying to shoot you with some less-lethal munitions?

11 A. There were munitions hitting the metal sheet.

12 Q. That was in front of you at the time?

13 A. Yes.

14 Q. And how long were the munitions hitting the metal
15 sheet in front of you before you were hit with an impact
16 munition on your upper-left arm?

17 A. I don't know how long it was.

18 Q. Can you tell me how many times any munitions hit
19 the metal sheet before you were struck?

20 A. No.

21 Q. The munitions that were hitting the metal sheet,
22 did that have any sound to it in terms of a explosive
23 sound, or, or, or did it sound like what you thought was
24 rubber bullets or bean bag rounds hitting the metal
25 sheet?

1 A. The latter.

2 Q. So it sounded what, like what you thought was
3 either a rubber bullet or a bean bag round?

4 A. Yes.

5 Q. Do you have any estimate of how many of these
6 bean bag rounds or rubber bullets hit the metal sheet in
7 front of you?

8 A. No.

9 Q. Do you have any time estimate of how long it was
10 that these rubber bullets or bean bag rounds were
11 hitting the metal sheet in front of you before you were
12 struck?

13 A. Well, it was less than five minutes.

14 Q. Can you be any more precise than that?

15 A. No.

16 Q. And when these, what you thought were bean bag
17 rounds or rubber bullets were hitting the metal sheet,
18 were there any explosive-type sound?

19 A. Not against the sheet.

20 Q. Was there any flashes of, of light or sound of
21 the munitions that were striking the metal sheet in
22 front of you?

23 A. No. But there were at least one or two to the
24 west.

25 Q. One or two what to the west?

1 A. Explosive munitions.

2 Q. During the time period you were behind the metal
3 seat and there's rubber bullets or bean bag rounds
4 hitting it?

5 A. Yes.

6 Q. And did you see what the source of those
7 explosive sounds was?

8 A. I couldn't see whoever was throwing or firing
9 them.

10 Q. Well, these explosive sounds, the one or two to
11 the west, do you know how far away those explosive
12 sounds were from you?

13 A. A few feet.

14 Q. A few feet to the west of where you were standing
15 behind the metal sheet at the time?

16 MR. STOLL: Objection to form.

17 A. They were a few feet west of where I was
18 standing.

19 Q. So close to you on the bridge?

20 A. Yes.

21 Q. Did you look over to see what it was that was
22 causing the explosive sound?

23 A. I don't remember looking at the munitions after
24 they exploded.

25 Q. Well, when you say "exploded," what, what do you

1 mean by the term "exploded"?

2 A. There was light and, and explosive sound.

3 Q. Okay. You're not saying, and don't mean to
4 suggest by using the word "exploded," that whatever the
5 device was broke apart into pieces such as might occur
6 with an explosion. Are you?

7 MR. STOLL: Objection to form, calls for
8 speculation.

9 A. I didn't see if there were pieces afterwards.

10 Q. Or while it was exploding or making the light and
11 sound?

12 A. I don't remember.

13 Q. Did you hear anything suggesting that the devices
14 to your west had exploded into pieces such as debris
15 flying through the air?

16 MR. STOLL: Objection to form.

17 A. I didn't get hit with or see any debris as far as
18 I can remember.

19 Q. And this one or two to the west of you a few
20 feet, do you know what type of less-lethal munition that
21 was?

22 A. Not specifically.

23 Q. At the point that you were hit with what you
24 believed to be a rubber bullet, did you say it was a
25 rubber bullet or a bean bag round you think you hit, you

1 got hit in your upper-left arm?

2 A. I didn't say.

3 Q. Well, I think you did earlier today, and I just
4 don't want to misstate it. Was, was it one of those
5 two? Is that your belief, that you either got hit in
6 your upper-left arm by a rubber bullet or a bean bag
7 round?

8 A. Or some other similar type of impact munition.

9 Q. And were you still behind the metal sheet at the
10 time you were struck with the impact munition?

11 MR. STOLL: Objection to form.

12 A. From who's perspective?

13 Q. From your perspective.

14 MR. STOLL: Objection to form.

15 A. I was still standing next to the metal sheet with
16 the sheet between me and the barrier. Can we take a
17 break?

18 Q. We're kind of right in the middle of a question
19 area --

20 MR. STOLL: Randy, just, just a five minute
21 break. I need to go to the bathroom anyway.

22 MS. WILANSKY: Me too.

23 MR. STOLL: Let's go off the record.

24 THE VIDEOGRAPHER: We are off the record at
25 3:22 p.m.

(Recess taken at 3:22 p.m.)

THE VIDEOGRAPHER: We are back on the record at 3:30 p.m.

Q. Okay. Ms. Wilansky, you had described what you indicated was a explosive light and sound to the west of you, one or two, while you were still at the metal sheet by the burnt out pickup truck. Correct?

A. Yes.

Q. Okay. And do you know, from that metal sound, from that sound and light, whether there was any flames from that device?

A. I don't believe there were any flames.

Q. Do you recall the smell of any burning from that device?

A. No.

Q. Do you recall any smoke from that device to your west?

A. No.

Q. How long after you saw the one or two light and sound devices to your west was it before you were hit in your upper arm with the impact munition?

A. About a minute.

Q. And then it was after the impact munition hit you in the arm that you then decided you were going to leave the bridge; is that correct?

1 A. Yes.

2 MR. STOLL: Objection. Sorry. Go ahead,
3 Sophia -- (inaudible) --

4 THE STENOGRAPHER: Was that an objection?

5 A. Yes.

6 MR. STOLL: That was an objection, yeah.

7 THE STENOGRAPHER: Okay. Thank you.

8 Q. So from the time that the impact munitions
9 against the metal sheet started to when you were struck
10 in the left arm and decided to leave the bridge, how
11 many minutes was that?

12 MR. STOLL: Objection to form.

13 A. A couple of minutes.

14 Q. Okay. And during that time period when the
15 impact, impact munitions are hitting the metal sheets in
16 front of you and when you are struck in the left arm
17 with the impact munition, did you say anything to law
18 enforcement?

19 A. Can you repeat the question?

20 Q. Yes. From when the impact munitions started to
21 hit the metal sheet you had in front of you to when you
22 were struck in the left-upper arm with the impact
23 munition, did you say anything during that two-minute or
24 longer time period to the law enforcement?

25 A. I don't remember.

1 Q. Do you remember saying anything to law
2 enforcement during that two-minute-plus time period?

3 A. No.

4 Q. When you were struck in the left-upper arm, other
5 than you said it hurt a lot, did it do anything to you
6 if terms of moving you, causing you to fall over, affect
7 your balance?

8 A. Not that I can remember.

9 Q. And, at that point, you decide you're going to
10 leave the bridge?

11 MR. STOLL: Objection to form.

12 Q. Correct? After you got shot in the left-upper
13 arm with the impact munition. Correct?

14 A. That's when I felt I had to get off the bridge as
15 quickly as possible.

16 Q. And, and where was Mr. Joachinson at the time you
17 were struck with the impact munition in your upper-left
18 arm?

19 A. He was very close to me.

20 Q. Was he on your right, was he on your left, was he
21 behind you?

22 A. I don't remember.

23 Q. When you say "very close to me," does that mean
24 you're brushing up against each other or you're several
25 feet away, if you remember?

1 A. I don't remember if we were touching or not but
2 close enough to be touching.

3 Q. And you don't know whether he was to your left,
4 he was to your right or whether he was behind you?

5 A. No.

6 Q. Was he behind the metal sheet as well as you?

7 MR. STOLL: Objection to form.

8 MR. BAKKE: Well, that's a poor question.

9 Q. Was Mr. Joachinson behind the metal sheet at the
10 same time you were when the impact munitions were
11 hitting the metal sheet?

12 MR. STOLL: Unfortunately, still objection
13 to form.

14 A. Maybe partially.

15 Q. Do you remember either way?

16 A. I believe he was further from the sheet at first
17 and then was shot several times and got closer to the
18 sheet.

19 Q. And did you see Mr. Joachinson get shot?

20 A. I don't remember.

21 Q. Other than the one or two light and sound you
22 heard to your west, prior to getting hit in the
23 upper-left, left-upper arm with the impact munition, did
24 you hear any other sounds that you thought might be
25 explosions before that?

1 A. Sorry. What's the time period?

2 Q. At, at any point when you were at the burnt out
3 truck for the half an hour to an hour and a half, until
4 the impact munitions start hitting the metal shield, did
5 you hear or see any light or sound devices or
6 explosions?

7 A. No.

8 Q. So the first time there were any light or sound
9 or what you're calling explosions were the one or two to
10 the west of you after law enforcement had already
11 started to use the impact munitions that were hitting
12 the metal sheet in front of you?

13 A. Not including the one that hit me, shortly after,
14 yes.

15 Q. And am I correct in understanding that the one or
16 two light and sound explosions you heard to your west
17 would have been sometime after law enforcement said,
18 over the LRAD, get out from underneath the truck?

19 A. Yes.

20 Q. Okay. How much longer was it after law
21 enforcement said, get out from underneath the truck,
22 when you first heard what you've described as an
23 explosion to the west of you on the bridge?

24 A. I don't know exactly.

25 Q. But there was some time period when, from,

1 between when law enforcement said get off the bridge and
2 when that first explosion to the west of you occurred?

3 A. I don't remember if they said get off the bridge.

4 Q. Okay. From when you heard law enforcement say,
5 get out from underneath the truck, it was some time
6 period after that before you saw one or two explosions
7 to your west?

8 A. Yes.

9 Q. How long of a time period that was, you don't
10 recall?

11 A. Within the window of minutes.

12 Q. Okay.

13 A. Not more specifically.

14 Q. Okay. And then, after you're hit in the
15 left-upper arm with the impact munition, you indicated
16 you decided to leave the bridge and said to law
17 enforcement, "I'm leaving. Please don't shoot." Is
18 that what you said?

19 MR. STOLL: Objection to form.

20 A. Can you repeat the question.

21 Q. Yeah. After you were hit in the left-upper arm,
22 you indicated that you said, "I'm leaving. Please don't
23 shoot." Is that what you said?

24 A. Yes.

25 Q. At that point, were you still behind the metal

1 sheet?

2 MR. STOLL: Objection to form.

3 A. From whose perspective?

4 Q. Well, the metal sheet would be in from front of
5 you, so it would have to be from your perspective.

6 MR. STOLL: Objection, vague.

7 A. I was near the sheet. I couldn't have been
8 behind the sheet from the perspective of the person who
9 shot me because they had a line of sight.

10 Q. I'm not asking you about somebody else's
11 perspective. I'm asking you because I think you said
12 that, that when you got shot in the left-upper arm that
13 you were behind the metal sheet. Correct?

14 MR. STOLL: Objection, mischaracterizes her
15 prior testimony.

16 A. I was still next to the sheet, with the sheet
17 between me and the barrier.

18 Q. Okay. Which would mean, if you're facing towards
19 the metal sheet, you're facing to the north, correct, on
20 the bridge?

21 A. Roughly, to the north.

22 Q. Okay. Which would mean whoever shot you in the
23 upper-left arm would have had to be to the west of you
24 some distance away in order to be able to see part of
25 your body. Correct?

1 A. Yes.

2 Q. Okay. And, makes sense that you were hit in your
3 up left, upper-left arm because the only way that would
4 be possible is if the person who shot the less-lethal
5 munition was to your left to the west. Correct?

6 A. Yes.

7 Q. Okay. And so when you said, "I'm leaving.
8 Please don't shoot," are you still in your same position
9 behind the metal sheet?

10 MR. STOLL: Objection to form.

11 A. I believe I was already moving south as I was
12 saying that.

13 Q. Okay. And other than to say, "I'm leaving, don't
14 shoot", did you do anything else other than to start to
15 move to the south?

16 A. No.

17 Q. Didn't put your hands up in the air?

18 A. I don't remember.

19 Q. Okay. And at any point after you're on the
20 bridge, did you ever put your hands up in the air?

21 A. I don't remember.

22 Q. And, and you know what I mean by "put your hands
23 up in the air" as if to surrender. Correct?

24 A. Yes.

25 Q. You, you never did that on the Backwater Bridge

1 on the early morning hours of this incident before your
2 injury occurred. Did you?

3 MR. STOLL: Objection, asked and answered.

4 A. I may have done that while I was retreating but I
5 don't remember.

6 Q. You don't remember doing that while you were
7 retreating. Do you?

8 A. It would have been a logical thing to do, but I
9 don't specifically remember doing it.

10 Q. And other than to say to law enforcement, "I'm
11 leaving. Please don't shoot," did you say anything else
12 to them after you had been stuck with the impact
13 munition on your upper-left arm up until the time the
14 incident occurred?

15 MR. STOLL: Objection to form.

16 A. No.

17 Q. And then you said you started to the south.
18 Would that mean that you would have your back towards
19 the barricade as you were moving south?

20 A. I don't remember when I turned around but at some
21 point, yes.

22 Q. But were you turned around at the time the
23 incident occurred to your lower-left arm resulting in
24 the severe injury?

25 A. I was, roughly, facing the direction of the pile

1 of plywood and bin lids.

2 Q. Okay. And which direction would that have been?

3 A. I'm not sure but I think east.

4 Q. Was the pile of plywood and the bin lids on the
5 east side of the bridge?

6 A. It was east of me when I reached, I believe it
7 was most likely east of center on the bridge.

8 Q. And when you were passing the pile of plywood and
9 bin lids on the bridge, were you further south than the
10 back end of the truck on the bridge?

11 A. Yes.

12 Q. Okay. How far south were you of the back end of
13 the truck when you passed the pile of plywood and bin
14 lids?

15 A. I was far enough from the truck that I couldn't
16 have quickly run back to it.

17 Q. Well, if we take the south end, the back end of
18 the truck to the point where the incident occurred where
19 the explosion injured your arm, how many feet were, were
20 you south of the back end of the truck when the
21 explosion occurred?

22 A. Again, I'm not great at gaging distances, but I
23 would guess at least 15 or 20 feet away.

24 Q. From the back end of the burnt out truck?

25 A. Isn't the back end to the northeast?

1 Q. We can put up the exhibit again showing the
2 position of the burnt out truck. That's Exhibit,
3 Exhibit 2, putting that up on the screen for you.

4 A. Oh, okay. I see. Yes, I was at least 15 or
5 20 feet away.

6 Q. Okay. From the back end of the truck when the
7 explosion occurred?

8 A. Yes.

9 Q. Okay. And where were you positioned at the time
10 of the explosion in relation to the center of the road?

11 A. I think I was pretty close to the center.

12 Q. When you say "pretty close," do you believe you
13 were to the east or west of the center of the bridge
14 when the explosion occurred?

15 A. I'm not sure but I'd say east is more likely.

16 Q. And after you got hit with the impact munition in
17 your upper-left arm, you, you said that hurt a lot. Did
18 the pain last or, or was it something where you got
19 struck and, and noticed the pain, but then it didn't
20 have an, an impact on you in terms of your left arm
21 after that?

22 MR. STOLL: Form.

23 A. The pain lasted.

24 Q. Okay. Did, once you were hit with the impact
25 munition in your upper-left arm, did that affect the

1 mobility in your left arm, at that point, in any way?

2 A. I don't remember.

3 Q. From the, the front end of the truck by the "NO
4 DAPL" sign that you were behind the sheet metal to the
5 point of the explosion, how many feet was that?

6 MR. STOLL: Objection to form.

7 A. I was also at least 15 to 20 feet from the front
8 driver's side corner of the truck.

9 Q. Okay. So we would take that 15 to 20 feet and
10 add that onto the 15 or 20 feet that you were further to
11 the south of the back end of the truck. Correct?

12 MR. STOLL: Objection to form.

13 A. I'm saying I was at least 15 to 20 feet from any
14 part of the truck but probably more like 30 feet.

15 Q. Okay. So if we take that 15 or 20 feet from the
16 front of the truck to the, to the back of the truck and
17 add on 30 feet, that would be from the left-front of the
18 truck behind the metal sheet from where the explosion
19 occurred, you had gone about 45 to 50 feet. Does that
20 sound accurate?

21 MR. STOLL: Objection to form.

22 A. No. You can't just add those two distances
23 together.

24 Q. Okay. You, you tell me the total distance you
25 believe you were from where you were behind the metal

1 sheet at the left-front of the truck to the point you
2 reached to the south when the explosion occurred.

3 MR. STOLL: Objection to form.

4 A. I believe I was around 30 feet away from any part
5 of the truck but at least 15 to 20 feet away.

6 Q. Well, but, but that's a different measurement.
7 What I'm trying to understand is, from where you were
8 at, at the left-front of the truck when you're behind
9 the metal sheet, you get hit by the impact munition,
10 from that location to where the explosion occurred, how
11 many feet was it?

12 MR. STOLL: Objection to form.

13 A. Again, I'm not great at gaging distances, but I
14 think I moved 30 feet, at least 15 to 20 feet.

15 Q. And, and that, that answer doesn't make any sense
16 to me because you can't be, well, 30 feet and 15 to 20.

17 A. At least 15 to 20.

18 Q. Okay. So from where you were hit with the less
19 lethal impact munition to where the explosion occurred,
20 you believe was at least 15 to 20 feet?

21 A. Yes.

22 Q. Or perhaps more?

23 A. Perhaps more.

24 Q. Okay. And so where was Mr. Joachinson during
25 this time after you were hit in the upper-left arm with

1 the impact munition to, when the explosion occurred?

2 A. I don't know.

3 Q. After you were hit with the impact munition, did
4 you see where Mr. Joachinson was?

5 A. He was still right next to me at the time, but I
6 didn't see whether he moved or not after I started
7 moving south.

8 Q. So you didn't observe whether Mr. Joachinson left
9 the bridge at about the same time you were leaving the
10 bring or whether he remained by the burnt out truck?

11 A. I did not observe that, correct.

12 Q. When you decided to leave the metal sheet after
13 you were hit with impact munition, were you walking,
14 were you jogging, were you running?

15 A. I was moving as quickly as I could, but it was
16 icy so I'm not sure if I was full on running.

17 Q. So were you at a, a jog pace?

18 A. Maybe.

19 Q. Do you know? Were you walking?

20 MR. STOLL: Objection, compound.

21 A. Somewhere between a brisk walk and a light run.

22 Q. And were you pumping your arms, walking with your
23 arms by your side? Where do you recall your arms being
24 at that point as between the point when you are struck
25 with the impact round to the point where the explosion

1 occurs?

2 MR. STOLL: Objection to form.

3 A. I don't remember. I was just focussed on getting
4 out of there.

5 Q. Were you carrying anything at the time after you
6 were shot in the upper-left arm to the point of the
7 explosion?

8 A. No.

9 Q. Did you reach for anything during that time
10 period?

11 A. I had just started to reach towards the pile.

12 Q. Why were you reaching towards the pile?

13 A. I was intending to pick up a piece of plywood.

14 Q. Why?

15 A. To provide some protection against being shot
16 while retreating.

17 Q. Between the time period from when you were struck
18 in the upper-left arm to the point where the explosion
19 occurred, were you struck at all by any rubber bullets
20 or impact munitions or anything else?

21 A. No.

22 Q. Did you see anything or hear anything that
23 suggested that, in that distance that you made it from
24 when the impact munition hit you in the upper-left arm
25 and the point where the explosion occurred, that someone

1 was attempting to shoot something at you?

2 A. No. I knew it was possibility because they were
3 just shooting at us right before.

4 Q. But you didn't hear or see anything to suggest
5 that, as you were retreating, that any law enforcement
6 officer was attempting to shoot at you at that point
7 until the explosion occurred?

8 MR. STOLL: Objection to form.

9 A. I wasn't looking at the police.

10 Q. I understand that but did you hear anything
11 whizzing by you or anything that you, you saw or heard
12 land by your feet or in the area that suggested that law
13 enforcement were shooting at you while you were
14 retreating?

15 MR. STOLL: Objection, calls for
16 speculation.

17 A. Not that I can recall.

18 Q. Prior to the explosion that injured you, did you
19 see anything strike you?

20 MR. STOLL: Objection to form, vague.

21 A. How far prior?

22 Q. Well, I, I thought you had indicated, and maybe I
23 didn't write it correctly, but I thought you had said
24 that whatever hit you on the left forearm that caused
25 your injury exploded on contact. Is that what you said?

1 A. Yes.

2 Q. And so what I'm asking about is, did you get any
3 notice that something was going to explode on your left
4 forearm or anywhere else on your body before the
5 explosion occurred?

6 A. No.

7 Q. Did you see what exploded on your left forearm?

8 A. I saw the light of the explosion.

9 Q. Was that when the explosion occurred?

10 A. Yes.

11 Q. And when the explosion occurred were you still
12 between what you call the fast walk and a run?

13 A. Not necessarily.

14 Q. Were you stopped?

15 A. No.

16 Q. You were still moving to the south when the
17 explosion occurred?

18 A. No.

19 Q. Okay. What direction were you moving at the
20 moment the explosion occurred?

21 A. Towards the pile which was roughly east or
22 southeast.

23 THE STENOGRAPHER: Can you repeat that
24 answer, please?

25 Q. In which direct was your body --

1 A. Towards the pile which was roughly east or
2 southeast.

3 THE STENOGRAPHER: Thank you.

4 Q. What, what was the position of your body at the
5 moment the explosion occurred?

6 A. I was just beginning motion of reaching towards
7 the pile.

8 Q. With which hand?

9 A. With my right hand.

10 Q. So was the pile to the east on your right or the
11 left side of your body?

12 MR. STOLL: Objection to form.

13 Q. Or was it directly in front of you to the, to the
14 south or east?

15 A. I was also turning to face it.

16 Q. To face the plywood?

17 A. Yes.

18 Q. And so was the plywood located, then, to the, the
19 south, if you were reaching with it, with your right
20 hand?

21 A. It was roughly east or southeast.

22 Q. Okay. So were you essentially facing to the east
23 or parallel to the bridge when you were just starting to
24 reach for the plywood?

25 A. Can you repeat the question.

1 Q. Yes. Were you facing to the east on the bridge,
2 essentially parallel to the bridge, when you were
3 starting to reach for the plywood and the explosion
4 occurred?

5 A. I was facing roughly east or southeast.

6 Q. And were you still upright when the explosion
7 occurred?

8 A. Mostly.

9 Q. Well, if you, when you, when you say "mostly,"
10 can you show me on the camera what your body position
11 was in relation to the ground at the point when the
12 explosion occurred?

13 MR. STOLL: Objection to, to that question.

14 A. I don't think I can replicate it exactly.

15 Q. Well, can you do your best to, to, to the best of
16 your memory of your body position at the point the
17 explosion occurred in relation to the, the ground?

18 MR. STOLL: Same objection.

19 A. I, I don't think I can replicate my body position
20 with a, with a great degree of certainty.

21 Q. Was the, the plywood laying flat on the ground,
22 or was it higher up on, in the air on top of something
23 else that you were about to reach for?

24 A. It was in a pile, so not fully on the ground.

25 Q. But you never reached the plywood; is that

1 correct?

2 A. That's correct.

3 Q. Do you remember how big the piece of plywood was
4 or what it was shaped like?

5 A. It was a rectangle, a, a few feet long by about a
6 foot or so wide.

7 Q. Is, is this something that you believe one of the
8 other protesters had used as a shield?

9 MR. STOLL: Objection, calls for
10 speculation.

11 A. I don't know how anyone else used it.

12 Q. You indicated that you saw a light when the
13 explosion occurred on your left forearm. Correct?

14 A. Yes.

15 Q. Describe the light.

16 A. It was very bright.

17 Q. Was there any color to the light?

18 A. Not as far as I can recall.

19 Q. So you can't tell me anything about the light
20 other than it was very bright?

21 A. It wasn't a colored light. I don't know if I
22 would call it white or yellow. It was just light.

23 Q. At, at the, the time the explosion occurred, were
24 you standing at the time? In other words, you weren't
25 on the ground already?

1 A. Yes.

2 Q. And were you partially bent over?

3 A. I was just starting to reach out and down, so a
4 little bit.

5 Q. So bent over very slightly?

6 A. Yes.

7 Q. Mostly upright?

8 A. Yes.

9 Q. And other than to see the very bright light, did
10 you see anything else at the time of the explosion?

11 A. No.

12 Q. Before the explosion occurred, did you feel
13 anything on your left forearm?

14 A. Maybe milliseconds before.

15 Q. Did, did you look down to see what had struck you
16 on the left forearm?

17 A. No. I didn't have time.

18 Q. Did, did you see anything immediately prior or at
19 the time of the explosion that you recognized as being a
20 less lethal munition?

21 A. No. I didn't look around for what it was.

22 Q. And, and you didn't see anything metal, for
23 instance, on your forearm at the point when the light
24 occurred and the explosion happened?

25 A. I wasn't looking at my arm.

1 Q. So when the light occurred the explosion occurred
2 simultaneously?

3 A. Yes.

4 Q. Now, were there any flames when the explosion
5 occurred?

6 A. No.

7 Q. Was there any smoke when the explosion occurred?

8 A. Not that I noticed.

9 Q. Was there a noise when the explosion occurred?

10 A. I can't isolate that from the feeling of the
11 explosion.

12 Q. Well, do you recall hearing any bang or noise
13 when the explosion occurred?

14 A. Yes. But I recall it so closely tied to the
15 kinesthetic sensation.

16 Q. Well, are you able to describe for me any noise
17 that you heard at the time of the explosion?

18 A. The whole thing was overwhelming, visually,
19 orally and kinesthetically.

20 Q. Was it a bright light, the time of the explosion?

21 A. Yes.

22 Q. Was the light that you saw at the time of the
23 explosion the same or different from the light or sound
24 you heard when there was one or two explosions to your
25 west when you were by the metal sheet?

1 A. It didn't seem different except that I was at the
2 center as opposed to further away.

3 Q. Did you know who the officer was who you are
4 claiming shot or issued the flash-bang that injured you?

5 MR. STOLL: Objection to form.

6 A. I don't know who the officer was who injured me.

7 Q. Do you know who the officer was that, that shot
8 you in your upper-left arm with the impact munition?

9 A. No.

10 Q. Do you know who the officer was that you're
11 claiming shot the flash-bang that injured you in terms
12 of who they were employed by?

13 MR. STOLL: Objection to form.

14 A. I don't know who it was.

15 Q. And that was a poor question. What I'm trying to
16 understand is, do you know what law enforcement agency
17 Officer Doe was with or affiliated with?

18 MR. STOLL: Objection to form.

19 A. No.

20 Q. Did you see or hear anything that told you the
21 direction from which the, you're claiming that the
22 flash-bang reached you?

23 MR. STOLL: Objection to form and
24 mischaracterizes prior testimony.

25 A. Can you rephrase the question.

1 Q. Yeah. What I, what I'm trying to understand is,
2 the, what you're claiming is a flash-bang, do you think
3 that was rolled at you on the ground on the bridge, do
4 you think it came through the air and was projected,
5 somehow, your way?

6 MR. STOLL: Objection to form and
7 mischaracterizes prior testimony.

8 A. The thing that hit me came through the air. I
9 don't know if it bounced off the ground or not, but I
10 don't see how it could have rolled on the ground.

11 Q. And do you know how it was projected, whether it
12 was shot out of some type of loader or gun, or was it
13 thrown by hand; do you know anything about that?

14 A. I assumed that it was launched rather than thrown
15 but I don't know.

16 Q. And why do you say that?

17 A. Because I felt a hard impact.

18 Q. When the explosion occurred, did you see anything
19 flying through the air such as metal fragments or
20 anything of that nature, or was it just the light that
21 you saw?

22 A. I only remember seeing light. And I'm really
23 sorry, I know we're in the middle, but I need to take
24 another break.

25 Q. Okay.

1 MR. STOLL: Let's go off the record.

2 THE VIDEOGRAPHER: We are off the record at
3 4:27 p.m.

4 (Recess taken 4:27 p.m.)

5 THE VIDEOGRAPHER: We are back on the record
6 at 4:35 p.m.

7 Q. Okay. Ms. Wilansky, after the explosion
8 occurred, were there any burn marks that you're aware of
9 on your forearm or your body anywhere?

10 A. No.

11 Q. Was there any fire damage to your jacket or
12 clothing?

13 A. No.

14 Q. Did you find any metal fragments or other
15 evidence you thought came from the explosion either on
16 your clothing or that you were advised came from your
17 body?

18 A. Yes.

19 Q. And tell me about that.

20 A. I believe that there were fragments removed in
21 surgery.

22 Q. And when you say "fragments removed in surgery,"
23 are you talking about in Minneapolis at the Hennepin
24 County Medical Center?

25 A. Yes.

1 (Defendant's Exhibit #17 was marked for identification.)

2 Q. Let me show you what's been marked as Deposition
3 Exhibit 17. This is a document provided to us by your
4 attorney with your discovery answers, and this is some
5 records he obtained from the Hennepin County Medical
6 Center. Have you seen this before?

7 A. No.

8 Q. I'm going to fast forward here to a photograph of
9 a metal fragment that's part of Exhibit 17. Have you
10 seen this before?

11 A. No.

12 Q. When you said there were fragments removed in the
13 surgery, are, are you aware of any fragments being
14 removed from the surgery other than the one shown in the
15 photograph in front of you from Deposition Exhibit 17?

16 A. No. I don't know if it was one or more pieces.

17 Q. Okay. But you believe it was at the Hennepin
18 County Medically Center where they removed whatever
19 metal fragment was, was found in your left forearm area
20 where the injury occurred?

21 A. Yes.

22 Q. Do you know what that metal fragment is from?

23 A. Not exactly. My attorneys have not been able to
24 get it tested.

25 Q. Do you, do you believe that's a fragment from

1 whatever exploded and caused your injury?

2 A. If that's what they removed from my body, yes.

3 Q. But you don't have any other explanation for it
4 being there. Do you?

5 A. No.

6 Q. Okay. Did you have any injuries from the
7 explosion other than in the area of your left forearm,
8 in other words, other parts of your body where metal or
9 shrapnel may have flown during the explosion?

10 A. It did blow all the way through to the other side
11 of my arm but not elsewhere on my body.

12 Q. When you say on the other side of your arm, are
13 you talking about your left forearm on the outside?

14 A. Yes. Do you want me to show you?

15 Q. Sure.

16 A. Well, let me turn the light on.

17 Q. So is there still metal there now or, or has that
18 been removed?

19 A. Not metal from the explosion.

20 Q. Okay. And so where were you pointing, do that
21 again, if you would, on your arm where you believe this
22 metal fragment was removed from?

23 A. I don't know where exactly it was removed from.

24 Q. Okay. So what were you pointing to us on your
25 arm; what, what, what was that location?

1 A. I was showing that it was not just my forearm but
2 that it also blew through to the other side of my arm.

3 Q. Okay. When you say "blew through," are you
4 talking about the metal fragment or just the force of
5 the explosion or don't you know?

6 A. I don't know. But there are like long gashes.

7 Q. Okay. The, the, the flash-bang that you believe
8 caused your injury, do you know, was that intended to
9 explode?

10 MR. STOLL: Objection to the form.

11 A. I believe that the munition that caused my injury
12 was a type of munition that is intended to explode.

13 Q. And break up into metal fragments?

14 MR. STOLL: Objection, calls for
15 speculation.

16 A. I don't know if the metal was supposed to break
17 up or not.

18 Q. But, apparently, whatever exploded on your left
19 forearm did break up into some metal pieces. Correct?

20 MR. STOLL: Objection to form,
21 mischaracterizes the evidence.

22 A. I believe so.

23 Q. And, and so are these less-lethal munitions
24 including a flash-bang supposed to explode into metal
25 pieces, if you know?

1 MR. STOLL: Objection, calls for
2 speculation.

3 (Defendant's Exhibit #27 was marked for identification.)

4 Q. And we've been provided with your discovery
5 answers with information on different type of
6 less-lethal munitions. I'm going to show you
7 Exhibit 27, and, and we can see in the upper-left hand
8 corner it's got a date of February 3, 2017, and do you
9 know where this information comes from?

10 A. Well, I can see a URL on the bottom.

11 Q. Okay. Did, did you find this or, or did somebody
12 else?

13 A. It wasn't me.

14 Q. And on the second page of an Exhibit 27, there's
15 a depiction or drawing or photograph of the Low Roll
16 Distraction Device. Is that what you are claiming in
17 the, in this case is the flash-bang?

18 MR. STOLL: Objection to form, calls for
19 speculation.

20 A. I don't know.

21 Q. And, and you don't know if this distraction
22 device breaks apart at all once it's deployed?

23 MR. STOLL: Objection to form, calls for
24 speculation.

25 A. No, I don't know.

1 Q. After the -- well, well, let me ask you this,
2 there will be eyewitness testimony that there was
3 someone behind this metal shield with a blue tarp on it
4 that was wearing a, a green jacket prior to the
5 explosion. Were you the only one there that you recall
6 wearing the green jacket?

7 MR. STOLL: Objection to the statement that
8 came before the question and objection to the form,
9 calls for speculation and lack of foundation.

10 Q. Can you answer my question, Ms. Wilansky?

11 A. I was the only person right there wearing a green
12 jacket that I can remember, but I don't remember what
13 color Stephen Joachinson's jacket was.

14 Q. And there, there will be eyewitness testimony
15 that, while the person with the green jacket was behind
16 the shield, that there were propane tanks rolled on the
17 ground from behind the person in the green jacket by
18 other protesters on the south side of, of the bridge.

19 MR. STOLL: Objection, that's not a question
20 and it's stating a bunch of facts not in evidence.

21 Q. Okay. Did, did that occur, Ms. Wilansky? Did
22 someone roll propane tanks on the ground, other
23 protesters, towards Mr. Joachinson and you?

24 A. No.

25 Q. Did you see propane tanks in the area of the

1 burnt out truck on November 21 before the explosion
2 occurred?

3 A. No.

4 Q. Were you involved in discussions about
5 improvising explosive devices using propane tanks on the
6 night of November 21 to either damage or destroy the
7 burnt out truck and/or the chain securing it in place?

8 A. No.

9 Q. There'll be testimony that you were leaving the
10 bridge just prior to when the explosion occurred, and it
11 looked like you were carrying something in the position
12 of what a running back might do with a football when
13 they are carrying it with both arms around it. Do you
14 recall being in that position as you were exiting the
15 bridge just moments prior to the explosion?

16 MR. STOLL: Objection to the statement
17 preceding that question, that there is no testimony to
18 that effect in evidence.

19 A. No.

20 Q. Okay. There will be testimony that this person,
21 who looked like they were carrying a football, turned
22 around after going south and then came back towards the
23 bridge. Did you do that?

24 MR. STOLL: Same objection, there hasn't
25 been any testimony in this case except for hers.

1 MR. BAKKE: Yeah. And, and this will all be
2 established at the appropriate time. Obviously, this is
3 the first deposition so, and it --

4 MR. STOLL: Yeah. But we haven't even
5 noticed any additional depositions yet, so how do you
6 know what will be in testimony?

7 Q. You can go ahead and, and answer, Ms. Wilansky.

8 A. No.

9 Q. Okay. Did you drop anything just a, a second or
10 a moment before the explosion occurred?

11 A. No.

12 Q. On the night of the explosion, did you understand
13 that no trespassing on the bridge was allowed?

14 A. No.

15 Q. Were there any signs or warnings that told you,
16 on the evening of November 20, that no trespassing on
17 the bridge was allowed?

18 MR. STOLL: Objection, lack of foundation.

19 A. I don't remember.

20 Q. Okay. Let me see if I can refresh your memory.
21 We'll show you Exhibit 22.

22 (Defendant's Exhibit #22 was marked for identification.)

23 This is a photograph taken by a protester by the
24 name of Frank Finan on November 20. Do you recognize
25 this as being the Backwater Bridge?

1 MR. STOLL: Objection to the form of the
2 question.

3 A. The bottom right corner?

4 Q. Right. If you look at the photograph, we can see
5 a guardrail in about the middle of the photograph
6 towards the bottom which would be the west side of the
7 Backwater Bridge. Does that sound accurate to you?

8 MR. STOLL: Objection to the form of the
9 question.

10 A. That looks like the guardrail --

11 Q. Okay.

12 A. -- on the bridge.

13 Q. On the back site of the Backwater Bridge?

14 MR. STOLL: Objection to the form of the
15 question.

16 A. I think so.

17 Q. Okay. And this, if we look on the right-hand
18 side of the photograph, which would show, looking to the
19 north from the south side of the Backwater Bridge; is
20 that correct?

21 A. Yes, I think so.

22 Q. And then we could see some floodlights in the
23 upper right-hand side on the law enforcement side; is
24 that correct?

25 A. Yes, I think so.

1 Q. And do you see the sign in the photograph in
2 about the middle in white with some printing on it,
3 which, from this distance, is faint?

4 A. I'm not sure.

5 Q. And the word "no trespassing," what do you
6 understand that to mean?

7 A. No trespassing means that unauthorized people
8 aren't allowed to be in an area defined by the "no
9 trespassing" sign.

10 Q. That you shouldn't go there in the location
11 identified where no trespassing is allowed. Correct?

12 MR. STOLL: Objection to form.

13 A. It just generally means that people aren't
14 allowed to be in a given area without permission.

15 Q. Okay. And, and we'll zoom in on the sign just to
16 the immediate west of the Backwater Bridge as of the
17 evening of November 20.

18 MS. REGAN: I'm sorry. Can we just clarify,
19 is this, this sign is not actually on the bridge, or is
20 it on the Jersey Barrier? I'm just not really
21 understanding where this is located.

22 MR. BAKKE: Yeah. I, I guess if you have
23 questions for people on that, Ms. Regan, I'll, I'll, you
24 can certainly ask when you take your depositions, but,
25 and my understanding, also, is there's just one attorney

1 who can be involved in objections or issues relating to
2 the witness' testimony.

3 Q. So, Ms. Wilansky, we zoomed into the, you can see
4 the razor wire next to the sign; is that correct?

5 MR. STOLL: Objection to form.

6 A. Yes. I see razor wire nearby.

7 Q. And do you believe that to be the razor wire you
8 described earlier just to the west of the Backwater
9 Bridge?

10 MR. STOLL: Objection, calls for
11 speculation.

12 A. I believe that to be part of what I've been
13 referring to as a, as the barrier that extended beyond
14 the bridge.

15 Q. Okay. And can you read what it says on the sign?

16 MR. STOLL: I will just note for the record
17 that we are zoomed in 400 percent on this photo.

18 A. It says "No Trespassing" and then the next word
19 it's partly blocked out, but there's the letter "N" and
20 then "Bridge."

21 Q. Okay. So do you believe that sign says, "No
22 Trespassing on Bridge"?

23 A. Most likely.

24 Q. And then I'm going to show you another exhibit.
25 Well, and, and let, let me, let me ask you this, Ms.

1 Wilansky, you, you would have known from this sign, if
2 you looked at it on the night of, both November 20 and
3 the early morning hours of November 21, that no
4 trespassing on the bridge by the protesters was allowed.
5 Correct?

6 MR. STOLL: Objection to form, calls for
7 speculation.

8 A. Can you repeat the question.

9 MR. BAKKE: Jesse, can you read it back.
10 (The requested portion of the record was
11 read by the reporter.)

12 MR. STOLL: Same objections.

13 A. I would have had to get close to that sign which
14 would have been dangerous.

15 Q. Well, how well you could see it from the bridge,
16 you don't know. Correct?

17 MR. STOLL: Objection to form, vague.

18 A. I don't remember seeing it at all.

19 Q. Did you, at that time, have any vision problems
20 on November 20 or 21, 2016?

21 A. No.

22 Q. Okay. We'll show you another photograph taken
23 the next day on November 21.

24 (Defendant's Exhibit #1 was marked for identification.)

25 MR. STOLL: Objection to the

1 characterization of the document.

2 MR. BAKKE: Well, it, it identifies on the
3 photograph below it from an entity called
4 "unicornriot.ninja" that this is published on
5 November 21, 2016, and appears to show the same "No
6 Trespassing on Bridge" sign as we just looked at a
7 moment ago on Exhibit 22. Correct?

8 MR. STOLL: Objection to the statement
9 before the question.

10 A. Can you repeat the question.

11 Q. Yeah. This appears to, to show the same sign as
12 we saw on, on November 20, Exhibit 22, but now from a
13 photograph published on November 21, 2016. Correct?

14 MR. STOLL: Objection, calls for
15 speculation.

16 A. I can't know if that's the, the same sign.

17 Q. Well, it's, it's, you can see the razor wire in
18 what appears to be the same location as Exhibit 22.
19 Correct?

20 MR. STOLL: Objection, calls for
21 speculation.

22 A. This photo is covered in gas, so all I see is a
23 sign and razor wire.

24 Q. Right. But that appears to be the razor wire
25 from the law enforcement's side of the Backwater Bridge.

1 Correct?

2 MR. STOLL: Objection to form.

3 A. Are you asking me if it's the same razor wire
4 from the last picture?

5 Q. Yes. Does it appear to be to you?

6 MR. STOLL: Calls for speculation.

7 A. It looks similar but I don't know.

8 Q. On the night of November 20, do you recall the
9 law enforcement issuing warnings over the LRAD and by
10 bullhorn advising protesters to stay off the bridge?

11 A. I don't remember.

12 Q. Do you recall warnings being given that the water
13 hose was going to be used before they used it?

14 A. I don't remember.

15 Q. In, in terms of the less-lethal munition that
16 caused your injury, are you aware of any information to
17 suggest it was a law enforcement officer from Morton
18 County who was the one that shot or projected the
19 less-lethal munition you're claiming caused your injury?

20 MR. STOLL: Objection to form and I'll
21 caution the witness not to answer that to the extent it
22 would reveal any attorney-client communications.

23 A. My general understanding is that any law
24 enforcement officers there were there under the offices
25 of Morton County.

1 Q. Well, we'll talk about that in a moment, but I'm,
2 I'm asking you specifically about the John Doe officer
3 you're claiming projected the less-lethal munition that
4 caused your injury, and are you aware of any
5 information, other than what your attorneys may have
6 told you, that that John Doe officer was someone
7 employed by Morton County?

8 MR. STOLL: Objection, asked and answered.

9 A. No, I don't know who it was.

10 Q. And do you know what role, if any, Sheriff Kyle
11 Kirchmeier, the Morton County Sheriff had in relation to
12 the law enforcement activities at the Backwater Bridge
13 on November 21 when you were there up until the, the
14 time of your injury?

15 MR. STOLL: Again, Sophia, I'll caution you,
16 don't reveal any attorney-client communications in your
17 answer to that question.

18 A. I don't know specifically, but if he's the
19 sheriff, he is in charge or responsible for what was
20 happening.

21 Q. Well, was Sheriff Kirchmeier at the DAPL protests
22 either on November 20 or 21 near the Backwater Bridge,
23 if you know?

24 MR. STOLL: Objection, calls for
25 speculation.

1 A. I don't know.

2 Q. Do you know anything about the chain of command
3 on November 20 and 21 in regards to who was involved in
4 directing or supervising the law enforcement activities
5 on those days?

6 MR. STOLL: Again, Sophia, just make sure
7 you're now disclosing or relying on any attorney-client
8 communications when you answer that question. If you
9 can answer the question without disclosing them, go
10 ahead.

11 Q. Well, and, Ms. Wilansky, all my questions are
12 intended to have you provide information that you have
13 apart from what you've learned from your attorneys, so
14 we don't need to have that caution every time.

15 A. I don't know.

16 Q. Do you know which law enforcement officers that
17 were present on November 21 prior to your incident at
18 the time of your incident who were positioned on the law
19 enforcement side of Backwater Bridge were employed by a
20 State of North Dakota entity?

21 MR. STOLL: Objection to form.

22 A. I don't know.

23 Q. Do you know, for instance, whether there were
24 North Dakota Highway Patrolmen present leading up to and
25 at the time of, of, of your incident on November 21?

1 MR. STOLL: Objection to form.

2 A. I don't know.

3 Q. Do you know what law enforcement officers on
4 November 20 or 21 had training and were allowed to use
5 less-lethal munitions in response to the protesters?

6 MR. STOLL: Objection to form, calls for
7 speculation.

8 A. I don't know.

9 Q. Do you, do you know whether it was only certain
10 of the law enforcement officers who were allowed to use
11 less-lethal munitions on November 20 and 21, 2016 at the
12 Backwater Bridge?

13 A. I don't know.

14 Q. Would you agree that the events of November 20,
15 2016, evening, evening while you were there the
16 three-plus hours was essentially a riot by the
17 protesters?

18 MR. STOLL: Objection to form.

19 A. No.

20 Q. Okay. No, you don't know, or, no, no, in your
21 view, it was not a riot?

22 A. I would not characterize it as a riot.

23 Q. And what, what do you consider to be a riot?

24 A. I'm not sure what the exact definition is, but I
25 believe it would have to include acts of property

1 destruction or violence.

2 Q. And if a riot is defined, taking part in a
3 violent public disturbance, would you agree these events
4 on November 20 could be defined that way?

5 MR. STOLL: Objection to form.

6 A. Only in reference to police violence.

7 Q. Okay. Is, is it your claim, in the three-plus
8 hours you were there on November 20, there was no
9 violence by the protesters towards law enforcement?

10 MR. STOLL: Objection, lack of foundation.

11 A. I didn't see any violence towards law
12 enforcement.

13 Q. Did you see protesters using slingshots with
14 rocks in them hurling them and projecting at law
15 enforcement?

16 A. No.

17 Q. Did you see protesters throwing frozen water,
18 water bottles at law enforcement on the evening of
19 November 20?

20 A. No.

21 Q. Did you see them throwing rocks at law
22 enforcement on November 20?

23 A. No.

24 MR. STOLL: Vague.

25 Q. Did you see protesters throwing logs and other

1 items that could cause significant injury or possibly
2 even death at law enforcement on November 20?

3 A. No.

4 Q. Did you see protesters throwing pieces of
5 concrete and parts of concrete at law enforcement on
6 November 20, 2016?

7 A. No.

8 Q. If those things happened, would it be fair to
9 categorize that based on your definition as a riot?

10 MR. STOLL: Objection to form, calls for
11 speculation.

12 A. Not necessarily. But the events of November 20
13 were overwhelmingly peaceful on the protester's side and
14 violence on the police side.

15 Q. Well, if, if those types of things were occurring
16 that I described, would you consider those to be acts of
17 violence, throwing logs, concrete blocks, slingshots
18 with rocks at them, rocks, frozen water bottles at law
19 enforcement, would, would you consider those violent
20 acts?

21 A. It depends.

22 Q. So you can envision, in, in your mind, that
23 throwing rocks, logs, pieces of concrete, slingshots
24 with rocks, frozen water bottles at law enforcement
25 would not be considered, in your mind, violent acts. Is

1 that your testimony?

2 MR. STOLL: Objection, mischaracterizes her
3 prior testimony and vague.

4 A. A reasonable person could potentially
5 characterize actions like those as violent if they were
6 actually intended to hit and injury somebody.

7 Q. And if law enforcement was confronted with those
8 type of acts that we've just discussed, do you think it
9 would be reasonable for law enforcement to defend
10 themselves against that type of conduct by the
11 protesters?

12 MR. STOLL: Objection, calls for
13 speculation.

14 A. I don't believe that a police officer in that
15 situation would need to defend themselves.

16 Q. And why not?

17 A. Because there are other options.

18 Q. What are the other options?

19 A. To move out of the way.

20 Q. Law enforcement to move out of the way?

21 A. Yes.

22 Q. Okay. So they, they, what, what you're saying is
23 the law enforcement should have, in response to that
24 type of violent conduct, simply move back away from the
25 Backwater Bridge and just let the protesters cross the

1 Backwater Bridge and do whatever they were going to do.
2 Is that what you're saying?

3 MR. STOLL: Objection, mischaracterizes her
4 prior testimony and is argumentative.

5 A. No, that's not what I'm saying.

6 Q. What, was it your understanding when you were at
7 the DAPL protest that the intent and desire of the
8 protesters was to cross the Backwater Bridge and get to
9 the drilling pad where the DAPL pipeline was to go under
10 the Missouri River and cause damage or destroy it?

11 MR. STOLL: Objection, vague, calls for
12 speculation.

13 A. I don't know what every person's goals or
14 motivations were.

15 Q. I didn't ask you about everyone's goals and
16 motivations where. I'm asking, wasn't that the intent
17 of the DAPL protesters, was to stop the completion of
18 the DAPL pipeline?

19 MR. STOLL: Objection, vague and calls for
20 speculation.

21 A. Not necessarily.

22 Q. If we turn to, to your specific involvement on
23 November 21 at the burnt out truck, and I know you
24 disagree with this, but if, if law enforcement on the
25 other side of the barricade near the burnt out truck

1 believed that you and Mr. Joachinson and the other
2 protesters were there to try to blow up the truck and/or
3 chain so the truck could be removed by the protester,
4 would it be appropriate for them to use less-lethal
5 munitions to prevent you from doing that?

6 MR. STOLL: Objection, lacks foundation.

7 A. I don't want to speculate about something so
8 different from what was actually happening.

9 Q. So you're not willing to agree that, if that was
10 the information that law enforcement have, it would be
11 reasonable to use less-lethal munitions to get Mr.
12 Joachinson and you and any other protesters off the
13 bridge?

14 MR. STOLL: Objection, lacks foundation,
15 calls for speculation.

16 A. I don't know the ins and outs of when police or,
17 when police consider it reasonable to use less-lethal
18 munitions.

19 Q. If, if law enforcement officers believe the
20 propane tanks or cylinders they saw and heard on the
21 Backwater Bridge prior to the explosion were going to be
22 used against them to either seriously injure or kill
23 them, would you agree it would be appropriate to use
24 less-lethal munitions to remove you and Mr. Joachinson
25 and any other protesters from the bridge?

1 MR. STOLL: Objection, lacks foundation,
2 calls for a hypothetical, object to the form of the
3 question.

4 A. I haven't thought about what's reasonable because
5 this is so far outside the realm of possibility.

6 Q. Have you given any statements other than to your
7 attorneys regarding the events of November 20 or 21,
8 2016 at the Backwater Bridge?

9 A. Yes.

10 Q. Okay. And, and what other statements have you
11 given, and to whom?

12 A. I did a couple of interviews with journalists.

13 Q. And who was that with?

14 A. I don't remember their names.

15 Q. And when was this?

16 A. Sometime in 2017.

17 Q. Do you know which news media or publication they
18 were with?

19 A. The New York Post.

20 Q. Okay. Was that the only one, or was there more
21 than one?

22 A. I also talked to someone from The Intercept.

23 Q. Okay. Anyone else?

24 A. Not that I can remember.

25 Q. Were you ever subpoenaed to appear before any

1 grand jury in relation to the events surrounding your
2 injury?

3 A. No.

4 Q. Are you aware of anyone who was?

5 A. Yes.

6 Q. Pardon?

7 A. Yes.

8 Q. And who was that?

9 A. Steve Martinez.

10 Q. Okay. And other than what you may have learned
11 from your attorney, what do you know about Steve
12 Martinez being subpoenaed to testify?

13 A. I believe that he's refused to testify.

14 Q. Anyone else that you know who's been subpoenaed,
15 testified regarding your incident?

16 A. No.

17 (Defendant's Exhibit #10 was marked for identification.)

18 Q. I'm going to show you what's been marked as
19 Exhibit 10. This is called a "Potential
20 Plaintiff/Witness Intake Form," and have you seen a
21 document like this before?

22 A. No.

23 Q. This, this is a form that was completed by Frank
24 Finan, another protester who is involved in a lawsuit
25 against Morton County. Were you aware, during the

1 protest, that there were forums being completed by
2 someone who was thinking about being a plaintiff or a
3 claimant in a lawsuit against law enforcement?

4 MR. STOLL: Objection to the
5 characterization of the document and objection to form.

6 A. Can you rephrase the question?

7 Q. Yeah. What I'm wondering about is, were you
8 aware that, during the protests, there were forms like
9 this available, perhaps through lawyers or people who
10 were attending the protests where there were these forms
11 that you could complete if you were a potential
12 plaintiff thinking about bringing a claim or you were a
13 witness to some incident involving law enforcement?

14 MR. STOLL: Objection to the
15 characterization of the document and objection to form.

16 A. No.

17 Q. Did you ever complete a form like this in
18 relation to the DAPL protest activities?

19 A. No.

20 (Defendant's Exhibit #11 was marked for identification.)

21 Q. I'm going to show you what's been marked as
22 Deposition Exhibit 11. This is another form that was
23 available at the DAPL protest called an "Evidence
24 Collection Form." Have you seen this before, this type
25 of form?

1 A. No.

2 Q. Do you know whether there was any type of
3 evidence collection form prepared by any other protester
4 or others following your incident on November 21, 2016?

5 A. I don't know.

6 Q. Are you aware of any efforts to gather evidence
7 from the Backwater Bridge area following your incident
8 by protesters after you were taken from the, the scene?

9 A. I vaguely remember something like that.

10 Q. Okay. And what do you remember about that?

11 A. I remember hearing that people went to look for
12 evidence in the following days.

13 Q. Okay. And did you learn whether they found
14 anything?

15 A. No.

16 Q. Was the device that you believe exploded and
17 caused your injury ever found at the scene by anyone, to
18 your knowledge?

19 A. No, not to my knowledge.

20 Q. Okay. Were any fragments or pieces of that
21 device ever found at the, the scene following your
22 incident, to your knowledge?

23 A. No, not to my knowledge.

24 MR. STOLL: Objection to form, vague.

25 Q. Okay. Has, has anyone done, has anyone done any

1 testing that you're aware of in relation to any
2 artifacts or evidence that might be related to your
3 explosion incident?

4 MR. STOLL: Objection, vague. I, I also
5 just caution you one more time, Sophia, not to disclose
6 any attorney-client communications in your answer to
7 that question.

8 A. I, I don't know outside of privileged
9 communications.

10 (Defendant's Exhibit #18 was marked for identification.)

11 Q. I'm going to show you part of deposition
12 Exhibit 18 which is some photographs of some weapons
13 that Morton County and law enforcement was, believed was
14 used or intended to be used by the protesters on
15 November 20 and 21, and the one I'm showing you now is
16 two, what are identified as Coleman fuel canisters which
17 is on the page MOR-0083 which were found on the
18 Backwater Bridge following your incident. Have you seen
19 these before?

20 MR. STOLL: Objection to the
21 characterization of the document and to the form of the
22 question, and, Mr. Bakke, if you're going to put this
23 document into the record or you're going to try to use
24 it as an exhibit, I'd like you to give the witness an
25 opportunity to see the whole document. You're just

1 showing her one snippet of what appears to be a
2 nine-page document that you're going to put in the
3 record.

4 MR. BAKKE: Yeah. I'll, I'll, I'll give her
5 plenty of time to look at each page I question her
6 about.

7 MR. STOLL: I, I, she should get the
8 contents for the whole document. Just let her see the
9 whole document.

10 MR. BAKKE: Okay. We can run through it
11 quickly. I don't have questions on some of the pages,
12 but they're just photographs, just like any other
13 photograph that can be asked about individually so...
14 Well, you have your objection. I'm, I'm not going to
15 spend time on other photographs that don't necessarily
16 relate to my questions. They're not going to shed any
17 light on the specific one I'm asking about, but we're
18 putting them all up on the screen for you now.

19 Q. So we'll go back, Ms. Wilansky, to the propane
20 tanks which is the 0083, and do you have any explanation
21 for those propane tanks being on the Backwater Bridge on
22 November 21 other than to use as an explosive device by
23 the protesters?

24 MR. STOLL: Objection. There's no
25 foundation that they were on the bridge on that night.

1 A. I have no reason to believe those were ever on
2 the bridge.

3 Q. Were, were Mr. Joachinson and you using any type
4 of propane heater or device when you were at the sheet
5 metal in the Backwater Bridge near the burnt out truck
6 on November 21?

7 A. No.

8 Q. And showing you what's part of Exhibit 18,
9 propane canisters that say "Punctured Canisters," and we
10 can see some holes on the bottom of the propane
11 canisters, had you heard or were you aware of efforts by
12 protesters on November 20 and 21 to improvise explosive
13 devices to be used against law enforcement?

14 MR. STOLL: Objection to the
15 mischaracterization of the document.

16 THE STENOGRAPHER: Can you restate that
17 objection, please. I didn't get it.

18 MR. STOLL: Yeah. I'm objecting to the
19 characterization of the document.

20 THE STENOGRAPHER: Thank you.

21 MR. STOLL: And the form of the question.

22 A. Can you repeat the question.

23 MR. BAKKE: Jesse, did you get the question,
24 that you could read it back?

25 THE STENOGRAPHER: Yep.

1 (The requested portion of the record was
2 read by the reporter.)

3 A. No.

4 Q. On the evening of November 20, did you hear
5 explosions from the protest side in relation to some
6 locations away from the Backwater Bridge?

7 MR. STOLL: Objection, vague.

8 A. Explosions other than police munitions?

9 Q. Yes.

10 A. No.

11 Q. Did, did you hear about testing by protesters of
12 improvised explosive devices that they were doing on
13 November 20, 2016?

14 A. No.

15 Q. Were you aware, when you were on the Backwater
16 Bridge on November 20, that the protesters had
17 previously used Molotov cocktails during the protests?

18 A. I had read about one such instance.

19 Q. Okay. And, and what incident was that?

20 A. The night of the raid on the north camp which I
21 believe was October 27th.

22 Q. Okay. And, and is that the incident where, when
23 the trucks were placed on the bridge by law enforcement
24 and/or governmental agencies that the protester used one
25 or more Molotov cocktails to start those trucks on fire?

1 MR. STOLL: Objection to form.

2 A. I don't remember, I don't remember reading about
3 how the trucks were burned.

4 MR. BAKKE: Off the record.

5 MR. STOLL: Sorry. Are we going off the
6 record?

7 MR. BAKKE: Yes.

8 MR. STOLL: Okay. Five minute break?
9 Sorry --

10 MR. BAKKE: Can I hear the time from --

11 THE VIDEOGRAPHER: We are off the record at
12 5:41 p.m.

13 (Recess taken at 5:40 p.m.)

14 THE VIDEOGRAPHER: We are back on the record
15 at 5:53 p.m.

16 Q. Okay. Ms. Wilansky, prior to the protests on
17 November 20, I understand that, while you were at the
18 DAPL protests, you had participated in other protest
19 activities; is that correct?

20 A. Yes.

21 Q. Okay. And one of those was in Bismarck?

22 A. Yes.

23 Q. And there were also some other protests that you
24 participated in, in other areas in Morton County?

25 A. I assume so.

1 Q. Well, I'm, I'm looking at your answers to the
2 discovery requests in this case that you provided,
3 Interrogatory No. 2, and it talks about some other
4 protests in Downtown Bismarck that you participated in
5 and some other protests on what you call "unoccupied
6 rural areas of Morton County," and do you recall those
7 events?

8 MR. STOLL: Objection, mischaracterizes the
9 interrogatory answer.

10 A. I'm just not sure where the county boundaries
11 are.

12 Q. Well, apparently at one or more of these events,
13 some less-lethal munitions were used by law enforcement
14 when you were one of the protesters; is that correct?

15 MR. STOLL: Objection, lacks foundation.

16 Q. In the incident where there was some pepper spray
17 used, does that refresh your memory?

18 A. Yes.

19 Q. Okay. And where was that at, and what was your
20 involvement in that protest?

21 A. I just remember being in a group of people and
22 the police pepper sprayed people close to me.

23 Q. Okay. And this was a protest event on a date
24 sometime prior to November 20?

25 A. Yes.

1 Q. Okay. And so you knew, at that prior protest
2 event, that law enforcement would use less-lethal
3 munitions such as pepper spray against the protesters if
4 they deemed it appropriate to do so?

5 MR. STOLL: Objection to form, calls for
6 speculation.

7 A. My understanding is that their usage of, of
8 weapons such as pepper spray was indiscriminate.

9 Q. Well, this, this prior event, did you end up
10 being affected or inhaling any of the pepper spray?

11 A. No.

12 Q. In, in your answer to Interrogatory No. 4, you
13 discuss, as being present on the bridge at certain
14 times, Richard Fisher, Brandi King, Steve Martinez and
15 Stephen Joachinson, and, and, other than Mr. Joachinson,
16 do you remember either a Steve Martinez, Brandi King or
17 Richard Fisher being there with you on the Backwater
18 Bridge at any point between 2:00 a.m. and 4:00 a.m. on
19 November 21?

20 A. I don't remember being with Richard Fisher, and I
21 didn't know the other people.

22 Q. Your cellphone, you said you had that on you at
23 the time of this incident. Correct?

24 A. Yes.

25 Q. Was that in your coat pocket?

1 A. I believe it was in my vest pocket.

2 Q. And that was preserved by you following the
3 incident?

4 A. I gave it to my lawyers.

5 Q. And when did you give it to your lawyers?

6 A. I don't remember.

7 Q. How long was it after the incident?

8 A. Within a few days.

9 Q. Were you still at the hospital in Minneapolis?

10 A. Yes.

11 Q. So did you first meet with Mr. Stoll while you
12 were at the hospital in Minneapolis?

13 A. I don't remember.

14 Q. I mean is that, is that the only attorney that
15 you retained following the explosion was Mr. Stoll and
16 perhaps other lawyers at his office?

17 A. No.

18 Q. Okay. Who were the other lawyers you retained?

19 A. Lauren Regan.

20 Q. Well, which lawyers do you recall seeing at, when
21 you were in the hospital in Hennepin County?

22 MR. STOLL: Objection, mischaracterizes her
23 prior testimony.

24 Q. Did you see them or did you just have a, a phone
25 or Zoom conversation with them?

1 MR. STOLL: Objection to form.

2 A. I think there were lawyers who came in person but
3 I'm not sure.

4 Q. When you were at the DAPL protests, you would
5 have been using that Apple iPhone with phone number
6 (347) 647-1894?

7 A. Yes.

8 Q. And that's the one you turned over to your
9 lawyers?

10 A. Yes.

11 Q. And were you someone who texted frequently?

12 MR. STOLL: I want to object to the form of
13 that last question.

14 A. No. I wouldn't say I texted frequently.

15 Q. And did you text multiple times throughout each
16 day when you were at the protests?

17 A. No.

18 Q. Did you text other protesters?

19 A. No.

20 Q. Did you get the contact information for any other
21 protesters?

22 A. Like phone numbers?

23 Q. Contact information of any, any type, phone
24 numbers, e-mail address, street address, where there
25 permanent address was, user names on Facebook?

1 A. Yes.

2 Q. Okay. And which ones?

3 A. I, I got, maybe, a few phone numbers.

4 Q. Okay. For, for which individuals?

5 A. Genevieve Wallace.

6 Q. Okay. Anyone else?

7 A. Erin Hesla.

8 Q. And were these people that were participating in
9 the DAPL protests with you?

10 A. I don't know if they ever attended any of the
11 protests.

12 Q. Well, in, in your response to Interrogatory
13 No. 1, you indicate that the people you interacted with
14 on a daily or regular basis while you were at the DAPL
15 protest included Richard Fisher, Erin Hesla and
16 Genevieve Wallace. Is that an accurate answer?

17 MR. STOLL: Objection to the form of that
18 question, mischaracterization of the interrogatory
19 answer. I think the interrogatory answer asks about a
20 camp, not during the protests.

21 A. Right. Those were people I interacted with at my
22 camp.

23 Q. And have you had communications with them by text
24 or instant messaging or Facebook messaging or some other
25 means of electronic communication during the protests or

1 after?

2 A. I have been in touch with them since.

3 Q. And how do you communicate with them?

4 A. Well, I haven't talked to them recently, but I
5 have, I believe I've talked to all three on Facebook, at
6 least Erin and Genevieve.

7 Q. And then I asked you about texting before, during
8 the protest. Would you use other means of electronic
9 communication regarding the protest activity, instant
10 messaging, Facebook messaging, some other means of
11 electronic communication?

12 A. Can you repeat the question.

13 Q. Yeah. What, what I'm trying to find out, you're
14 at the protest from November 4 through November 21,
15 2016. I'm just trying to find out, did you use any type
16 of electronic communication whatsoever to communicate
17 with people during that timeframe?

18 A. Not people who were also there.

19 Q. I'm talking about other people as well. Did you
20 have a preferred method of electronic communication used
21 while you were at the protest or since then?

22 MR. STOLL: Objection, vague and compound.

23 A. I'm sure that I called my mom sometimes.

24 Q. Okay. But, but you're not somebody who used any
25 type of electronic messaging or instant messaging or

1 Facebook messaging or anything of that nature. Your,
2 you used your cellphone strictly for purposes of making
3 phone calls; is that your testimony?

4 A. No, I don't --

5 MR. STOLL: Mischaracterizes her prior
6 testimony.

7 A. No. I had a Facebook account.

8 Q. Okay. And were you posting on that?

9 MR. STOLL: Objection. During what time
10 period?

11 MR. BAKKE: During, during the protests or
12 after regarding the protest activities.

13 MR. STOLL: Object, it's a compound
14 question.

15 A. As far as I can remember, I wasn't posting
16 regarding the protest activities.

17 Q. And your cellphone, it indicates in your response
18 to Interrogatory No. 5, it was turned over to some
19 expert. Who was it turned over to?

20 MR. STOLL: I'm going to object that that
21 calls for an attorney-client communication. I mean, I'm
22 happy to answer that, Randy, but the reason she would
23 know that is that her lawyers told her.

24 Q. Okay. Well if you could provide me that
25 information, Ben, including what information has been

1 downloaded, whether a mirror image has been done,
2 whether anything's been deleted or changed, I'd
3 appreciate that.

4 MR. STOLL: Yeah. I'll have to talk to you
5 at length about the phone off the record.

6 Q. You don't know what happened to the phone after
7 it was taken by your lawyers; is that correct?

8 A. Not outside of privileged communications.

9 Q. What would have been the user names you would
10 have used during the protests and following that in
11 relation to social media?

12 MR. STOLL: Randy, are you, if I let her
13 answer that, are, will you stipulate that we're going to
14 redact this from any public version of this transcript?

15 MR. BAKKE: Well, not, not redact, no. I, I
16 guess, if you file something or I do, but not redact
17 because there may be a need for the court to look at
18 that. I'll, I'll agree that it can be kept
19 confidential.

20 MR. STOLL: And that it will be sealed from
21 public view in some form or another?

22 MR. BAKKE: Yeah. In, in any court filings,
23 I assume that's what you're referring to?

24 MR. STOLL: Yeah. I just want to make sure
25 that the public doesn't get to see her answer to this.

1 MR. BAKKE: Sure.

2 Q. Okay. Go ahead, Ms. Wilansky.

3 (Confidential Portions Lines 3 through 18 Redacted.)
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19 Q. In your interrogatories, you identified a list of
20 what you described as, "The following people witnessed
21 her injury on November 21, 2016," and I want to know,
22 from you, what these individuals know in relation to
23 witnessing your injury and whether you've communicated
24 with them. The names are Will Adams --

25 MR. STOLL: Sophia, I just caution you, when

1 you're answering these questions, just don't reveal any
2 attorney-client communications, so, with that caveat,
3 answer away.

4 A. Do you want me to respond one by one?

5 Q. Sure?

6 A. You said Will Adams.

7 Q. Will Adams?

8 A. That doesn't sound familiar.

9 Q. Walter Brave?

10 A. I don't know.

11 Q. Justin Cohn, C-o-h-n?

12 A. I don't know.

13 Q. Naomi Langley, L-a-n-g-l-e-y?

14 A. Yes.

15 Q. Okay. What do you know about her, and what does
16 she know about the explosion?

17 MR. STOLL: Objection, compound.

18 A. I know that she identified herself as a witness.

19 Q. Okay. So have you ever communicated with her
20 about that?

21 A. I don't remember if she told me that directly.

22 Q. Well, have you communicated with her since the
23 incident occurred?

24 A. Yes.

25 Q. How?

1 A. Through Facebook, and I've seen her in person a
2 couple of times.

3 Q. Where at?

4 A. The first time was in North Dakota, and the
5 second time was at her apartment.

6 Q. And where is her apartment?

7 A. I don't know where she lives now.

8 Q. So where was her apartment?

9 A. Nashville, Tennessee.

10 Q. Is she someone you met at the protests?

11 A. I don't think I met her until later.

12 Q. And did you go see her in Nashville?

13 A. That wasn't the purpose of the trip.

14 Q. Okay. Did, did you go visit her, or what was the
15 purpose of the trip?

16 A. I was on a road trip, and I stayed at her house
17 for a night.

18 Q. And do you know what she does for a living?

19 A. I haven't talked to her recently.

20 Q. Do you have any idea where she's from originally
21 or what she's done for a living?

22 A. I believe that she's from Nashville.

23 Q. Do you have her contact information?

24 A. I don't think so.

25 Q. Harmony -- did, did Ms. Langley tell you what she

1 observed in relation to the incident?

2 A. I don't remember.

3 Q. Harmony Lauritzen, L-a-u-r-i-t-z-e-n, do you know
4 who that is?

5 A. Yes.

6 Q. Okay. Who is she?

7 A. Another person who identified herself as a
8 witness.

9 Q. Okay. Have you ever communicated with her?

10 A. I'm not sure.

11 Q. Do you know anything about her, have her contact
12 information, know what she observed?

13 A. I think we're Facebook friends.

14 Q. Where is she from?

15 A. I don't know.

16 Q. Julian Sniesak, S-n-i-e-s-a-k, do you know who
17 that is?

18 A. No.

19 Q. Ever communicated with that person?

20 A. No.

21 Q. Who is McKenzie McDonald Wilkins?

22 A. Sorry. That's a complicated question.

23 Q. Give me a short answer.

24 A. He's my friend and we were in a relationship
25 also.

1 Q. At the time of the protest activities?

2 A. No.

3 Q. After the protest activities?

4 A. Yes.

5 Q. And, and where is he from?

6 A. He's from both Michigan and Arkansas.

7 Q. Okay. Where in Michigan?

8 A. I believe around Ann Arbor.

9 Q. Okay. And where in Arkansas?

10 A. Hot Springs, Arkansas.

11 Q. Okay. And where, where is the last place out of
12 those two you understood he was at?

13 A. That's where he grew up. I have no reason to
14 believe he's in either of those places or has been there
15 recently.

16 Q. Okay. Don't have his contact information?

17 A. I have his phone number.

18 Q. In, in your discovery responses, it says your
19 expert has preserved some law enforcement munitions.
20 What do you know about that?

21 MR. STOLL: You can answer that to the
22 extent it doesn't come from attorney-client
23 communications, Sophia.

24 A. I'm not sure if anything I know would fall
25 outside attorney-client privilege.

1 Q. Do you know a Brock Thomas?

2 A. No.

3 Q. Do you have any knowledge or information that any
4 of the less-lethal munitions used by attorney-client
5 privilege on November 20 or 21 were modified or altered
6 in any way by law enforcement?

7 A. I have heard something like that.

8 Q. Okay. And what have you heard about that?

9 A. I've heard rumors that law enforcement could have
10 been taping munitions to alter them.

11 Q. But is, is that, all you know about it is rumor?

12 A. Yes.

13 Q. Okay. Are you aware of, of law enforcement using
14 any less-lethal munitions on November 20 or 21 in any
15 manner not recommended by the manufacturer of the
16 less-lethal munitions?

17 MR. STOLL: Objection to form.

18 A. Yes.

19 Q. Okay. Tell me about that.

20 A. I don't see how they could have been using them
21 properly when they caused my injury.

22 Q. Are you aware of anyone at the DAPL protests
23 other than you who claims to be injured by a flash-bang
24 device?

25 MR. STOLL: Objection, mischaracterizes

1 prior testimony and form.

2 A. There were so many people injured, I can't
3 remember specifically.

4 Q. Well, when you say "There were so many people
5 injured," I'm, I'm just asking the ones that you know
6 about, and did you ever personally observe someone
7 during the DAPL protests who you believe was injured by
8 a flash-bang?

9 A. Not that I remember other than myself.

10 Q. And did you ever personally witness any other
11 protester who was injured by any impact munitions used
12 by law enforcement?

13 A. Yes. I saw lots of people being shot. I didn't
14 look up close at their injuries.

15 Q. Are, are you aware of anyone other than yourself
16 who, at the, the DAPL protests, sustained any type of
17 more serious injury?

18 MR. STOLL: Objection, vague.

19 A. Do you mean more serious than my injury?

20 Q. No. I mean a, a, a serious injury of, of any
21 type due to less-lethal munitions?

22 A. Yes.

23 Q. Okay. Who do you know and what was the nature of
24 their injury, and how do you know it?

25 MR. STOLL: Objection, that's a lot of

1 different questions.

2 A. Can you break that down.

3 Q. Sure. What other protesters at the DAPL protests
4 are you aware of who had significant injuries from
5 less-lethal munitions?

6 A. Vanessa Dundon.

7 Q. Okay. And were you, did you personally observe
8 that?

9 A. No.

10 THE STENOGRAPHER: What was that last
11 answer?

12 Q. Do you know Vanessa Dundon?

13 MS. WILANSKY: No.

14 THE STENOGRAPHER: No, the name?

15 MR. BAKKE: Vanessa Dundon, D-u-n-d-o-n.

16 THE STENOGRAPHER: Thank you.

17 MS. WILANSKY: Sorry.

18 Q. Have you ever spoken to Ms. Dundon?

19 A. Yes.

20 Q. Was it while you were at the protests or some
21 other time?

22 A. Some other time.

23 Q. Any other protesters that you're aware of that
24 suffered a significant injury during the DAPL protests?

25 A. Yes.

1 Q. Who else?

2 A. I believe his name is Israel Hoagland.

3 Q. Okay. And were you present when he was injured?

4 A. I don't know.

5 Q. Did you see his injury occur?

6 A. No.

7 Q. Other than, than what you've told me about today,
8 which is, it's quite a lot, is there anything else you
9 know about law enforcement's use of flash-bangs during
10 the DAPL protests that we haven't already discussed here
11 today?

12 MR. STOLL: Objection, vague.

13 A. I'm not sure.

14 Q. Is, is the only less-lethal munition that you're
15 aware of during the DAPL protests where the less-lethal
16 munition supposedly broke apart into metal fragments is
17 your injury?

18 MR. STOLL: Objection, lacks foundation.

19 A. I don't know the medical details of other
20 people's injuries.

21 Q. And I'm not asking about the medical details, but
22 am I correct in understanding that you believe whatever
23 struck you at the time of the incident broke apart, and
24 that's why you had the metal fragment found in your arm
25 after the incident occurred?

1 MR. STOLL: Objection, mischaracterizes her
2 prior testimony and calls for speculation.

3 A. Can you rephrase the question.

4 Q. Sure. My understanding is that you believe that
5 the, what you're calling a flash-bang that caused your
6 injuries during the incident broke into one or more
7 metal fragments. Correct?

8 MR. STOLL: Objection, mischaracterizes her
9 prior testimony.

10 A. I believe that the munition that caused my injury
11 must have broken into fragments because there was at
12 least one fragment found in my body.

13 Q. Okay. And so that, my question was, are you
14 aware of any other less-lethal munition during the DAPL
15 protest that broke apart and caused injury to any
16 protester?

17 A. I don't know, specifically, if those injuries
18 were caused, to any extent, by the munition breaking
19 apart.

20 Q. And other than this flash-bang that you believe
21 broke apart to cause your injury, are you aware of any
22 other less-lethal munitions used during the DAPL protest
23 breaking apart into metal fragments?

24 MR. STOLL: Objection to form.

25 A. Not specifically.

1 Q. Okay.

2 MR. BAKKE: And, Jeff, I'm assuming I'm
3 getting close. Can you tell me the time.

4 THE VIDEOGRAPHER: 6 hours and 53 minutes --

5 MR. BAKKE: Okay.

6 THE VIDEOGRAPHER: -- and 14 seconds.

7 MR. BAKKE: Okay. Let's go off the record.

8 THE VIDEOGRAPHER: We are off the record at
9 6:34 p.m.

10 (Recess taken at 6:34 p.m.)

11 THE VIDEOGRAPHER: We are back on the record
12 at 6:45 p.m.

13 Q. Okay. Ms. Wilansky, from when you arrived at the
14 bridge at around 2:00 a.m. on November 21 to when the
15 explosion occurred, do you recall any warnings being
16 given by law enforcement, other than, get out from
17 underneath the truck?

18 A. No.

19 Q. Okay. Do you recall law enforcement verbalizing
20 any commands or speaking over the LRAD or by their
21 natural voice or by bullhorn between 2:00 a.m. and
22 4:00 a.m. when the incident occurred other than, get out
23 from underneath the truck?

24 A. Okay.

25 Q. Do you deny such commands were, and warnings were

1 given to you while you were on the Backwater Bridge
2 between 2:00 and 4:00 a.m.?

3 MR. STOLL: Objection, calls for
4 speculation.

5 A. I don't remember.

6 Q. So that doesn't mean that they weren't giving
7 other commands, you're saying you just don't remember
8 one way or the other?

9 A. Yes.

10 Q. And then turning back to the three-plus hours you
11 were at the Backwater Bridge near or on, on November 20,
12 do you recall there being multiple warnings and
13 directives given by law enforcement over the LRAD while
14 you were present?

15 MR. STOLL: Objection to form.

16 A. I don't recall specifically. There were a lot of
17 different sounds.

18 Q. Okay. Were they using the LRAD to address the
19 protesters when you were there for that three-plus hours
20 on November 20?

21 A. I don't remember.

22 Q. Do you recall, while you were on the Backwater
23 Bridge on November 20, hearing any of the following
24 commands by law enforcement, "Get back"?

25 A. No.

1 Q. "Stay away from the bridge"?

2 A. No.

3 Q. "Get off the bridge"?

4 A. No.

5 Q. "Move back"?

6 A. No.

7 Q. "Back away from the concertina wire and return to
8 the south side of the bridge"?

9 A. No.

10 Q. "Back away from the barricades"?

11 A. No.

12 Q. "Stop trying to cut the razor wire"?

13 A. No.

14 Q. Protesters were told they were trespassing and
15 would be arrested if they trespassed?

16 MR. STOLL: Objection, that's not a
17 question.

18 Q. Do you recall that order being given?

19 A. No.

20 Q. Protesters being told to stay away from the burnt
21 out vehicle and the razor wire?

22 MR. STOLL: Objection, not a, vague, not a
23 question.

24 A. No, I don't remember that.

25 Q. "Disbursed immediately and return to the camp"?

1 A. No.

2 Q. "Stay back and stop throwing rocks"?

3 A. No.

4 Q. Do you deny that warnings of that type were given
5 to the protesters during the time period you were there
6 for the three-plus hours near or on the Backwater Bridge
7 on November 20?

8 MR. STOLL: Objection, vague and compound
9 and calls for speculation.

10 A. I don't remember those commands being given.

11 Q. Okay. Are you saying they weren't given, or are
12 you saying you just don't remember what commands were
13 given by law enforcement on November 20 while you were
14 present on or near the bridge?

15 MR. STOLL: Objection, call for speculation
16 and vague.

17 A. I don't remember if there were, if these commands
18 were given or if commands like that were given, but
19 there were a lot of other sounds, so I don't know if I
20 would have heard them.

21 Q. Well, was the, the, the loudest things that was
22 occurring while you were there on November 20 was the
23 LRAD?

24 A. It depends.

25 Q. Okay. Do you agree there were commands given by

1 the law enforcement on November 20 while you were on or
2 near the Backwater Bridge, but you just don't remember
3 what the specific words were?

4 A. I don't remember those commands being given at
5 all.

6 Q. Okay. But do you remember commands being given
7 by law enforcements to the protesters to the affect that
8 they should get off the bridge on November 20?

9 MR. STOLL: Objection, vague.

10 A. No.

11 Q. On November 20, were there flares that were being
12 lit on fire by the protesters?

13 A. Not that I saw.

14 Q. Were there fireworks being used by the
15 protesters?

16 A. On November 20?

17 Q. Yes.

18 A. Not that I saw.

19 Q. Did you see the protesters direct fireworks
20 towards law enforcement on November 20?

21 A. No.

22 Q. Have you ever seen a flash-bang go off after
23 November 21, 2016?

24 A. Yes.

25 Q. Okay. And, and where did you see that and when?

1 A. I saw some this summer.

2 Q. And where was that at?

3 A. Portland, Oregon.

4 Q. And did that flash-bang break apart into metal
5 pieces?

6 MR. STOLL: Objection, calls for
7 speculation.

8 A. I don't know. I didn't look at them after.

9 Q. Okay. Were you, did you see one or more
10 flash-bangs deployed in relation to your involvement in
11 protest activities in Portland, Oregon in the summer of
12 2020?

13 A. Can you repeat the question?

14 Q. Yes. Did you see flash-bangs being used in
15 relation to your, your participation in protest
16 activities in Portland, Oregon in the Summer of 2020?

17 MR. STOLL: Objection to form.

18 A. I can't say that they were in relation to my
19 activities, personally.

20 Q. I didn't ask you that. Was it in relation to a
21 protest?

22 MR. STOLL: Objection, objection to form.
23 Randy, you're well over your seven hours now.

24 MR. BAKKE: Well, let me just finish this
25 topic quickly. I'm not getting an answer.

1 Q. Let, let me try to speed this up. In relation to
2 the flash-bang or flash-bangs you saw in Portland,
3 Oregon in the summer of 2020, were those being used by
4 law enforcement?

5 A. Yes.

6 Q. Was, was anyone injured from those flash-bangs?

7 MR. STOLL: Objection.

8 Q. That you saw?

9 A. No.

10 Q. And how many flash-bangs did you personally
11 observe go off in Portland, Oregon?

12 A. I don't know exactly, several.

13 Q. And was that the only other time since you
14 incident where you'd seen, personally seen flash-bangs
15 deployed?

16 A. Yes.

17 Q. Okay.

18 MR. BAKKE: Thanks for the indulgence, Ben.

19 MR. STOLL: Certainly.

20 BY MR. STOLL

CROSS EXAMINATION

21 Q. I have just a few questions for you, Ms.
22 Wilansky. The, the first is, between 2:00 a.m. and
23 4:00 a.m. on November 21, 2016, how would you describe
24 the general atmosphere on the Backwater Bridge?

25 A. It was very calm and tranquil. There were people

1 cleaning up objects from the roadway. There were
2 actually people sledding on bin lids on, off the side of
3 the bridge, but most people were just sitting around
4 campfires quitely.

5 Q. During that two-hour period, did you see anybody
6 throw anything at law enforcement?

7 A. No.

8 Q. During that two-hour period, did you see anyone
9 act violently?

10 A. No, other than the police.

11 Q. Understood. During that time period, did you see
12 anybody, like screaming or yelling at law enforcement?

13 A. No.

14 Q. During that time period, did you see anyone
15 threatening to use force or violence against law
16 enforcement?

17 A. No.

18 Q. Did you see anything during that period that
19 could possibly be described as a riot or riot-like
20 behavior?

21 A. No.

22 Q. During that time period, were any of the law
23 enforcement officers doing anything to try to remove the
24 protesters from the bridge?

25 A. No.

1 Q. During that time period, did any of the law
2 enforcement officers appear to be acting in a defensive
3 posture or position?

4 MR. BAKKE: Objection as calling for
5 speculation, no foundation.

6 A. No.

7 Q. During that time period, did any of the law
8 enforcement officers appear, to you, to be scared or
9 intimidated?

10 MR. BAKKE: Object to lacks of foundation,
11 calls for speculation.

12 A. No.

13 Q. During that time period, did any of the law
14 enforcement officers articulate, in any way, that they
15 were scared or intimidated or afraid for their life?

16 A. No.

17 Q. During that time period, if the police had been
18 worried about securing the truck that was on the bridge,
19 could they have just walked around the barricades and
20 concertina wire and gotten onto the south side of the
21 bridge and physically secured the truck?

22 MR. BAKKE: Objection as calling for
23 speculation, no foundation.

24 A. I think they could have.

25 Q. And my, my final question for you is, had that

1 truck on the bridge not been chained or secured to the
2 bridge or the Jersey barrier, would you or anyone around
3 you have any ability to get it off the bridge?

4 MR. BAKKE: Objection as calling for
5 speculation, no foundation.

6 A. No. I believe it took a big truck to move the
7 other one.

8 Q. Okay. I have no further questions.

9 MR. BAKKE: Okay. Let's go off the video
10 record but stay on the written record.

11 THE VIDEOGRAPHER: We ask that all
12 participants please stay connected to provide your
13 transcript and video orders. This concludes today's
14 videoconference. We are off the video record at 7:01
15 p.m.

16 MR. BAKKE: And then, Ben, do you want to
17 advise her of her, her right to read and sign? And then
18 I just have another housekeeping matter to, to follow up
19 on, on the record.

20 MR. STOLL: Sure. Sure. So, Sophia, you
21 have the right to review the transcript and, you know,
22 make sure it doesn't have typos or errors in it. You
23 can, and my advise to you is that you reserve you right
24 to do that. Do you reserve your right to do that?

25 MS. WILANSKY: Yes.

1 MR. STOLL: Okay. Jesse, I, I'd like a copy
2 of that transcript, and I will make sure that Sophia
3 yeah gets it and, and review it.

4 THE STENOGRAPHER: Okay. I'll get your
5 orders after --

6 MR. BAKKE: Okay.

7 THE STENOGRAPHER: -- we're done.

8 MR. BAKKE: And then, Jeff, before we let
9 Jesse go, I think I mentioned before that I want a copy
10 of the video of Ms. Wilansky's deposition.

11 THE STENOGRAPHER: Are we off the record
12 now?

13 THE VIDEOGRAPHER: Do you need that
14 synchronized?

15 MR. BAKKE: Yes, please.

16 THE STENOGRAPHER: Are we off the record?

17 MR. STOLL: Jeff, I'd like the same.

18 MR. BAKKE: Well, I'm going to go back on
19 the record, but if you want to go off for this, that,
20 that, that's fine. I --

21 THE STENOGRAPHER: Yeah. I can just get --
22 yeah. Go ahead and get your orders, Jeff. Sorry.

23 THE VIDEOGRAPHER: No, we're good. I got
24 it.

25 THE STENOGRAPHER: Okay.

1 MR. BAKKE: Okay. So, Jesse, back on the
2 record. Ben, just a topic just so I remember later what
3 we talked about, so the two cellphones, well, you, you
4 indicated you'd talked to me about that. What's, what's
5 that status and what's been downloaded, and is there a
6 mirror image and who has them and...

7 MR. STOLL: Yeah. So I think you're talk,
8 there's the iPhone that you referenced earlier. That
9 was what she was carrying when she was injured. Our
10 expert Dr. Buck has that, and before we can do anything
11 with it we need a joint protocol as to how we're going
12 to remove information from it. I also, like, I, I had
13 forgotten this the last time we talked, but Dr. Buck
14 reminded me that there is residue on that phone. We're
15 going to want to test that residue, but, again, we've
16 been waiting until we have some kind of joint protocol
17 to do that, so I'm happy to work with you to, on
18 protocols, to, to remove the residue. I have a separate
19 expert who is an expert at removing information from old
20 phones in a forensically sound way, and I can provide
21 you with a proposed protocol for him of how he's going
22 to do that, but I just want to make sure that it gets
23 approved before it gets done. The, the second phone is
24 the Alcatel phone that Sophia had after she was injured,
25 and we, we imaged that phone, and I reviewed that image

1 and produced everything off of it that was responsive.

2 MR. BAKKE: So the, the iPhone she had with
3 her at the time, do you want to send me or proposed
4 joint protocol --

5 MR. STOLL: Sure.

6 MR. BAKKE: -- with the residue issue or
7 damage issue?

8 MR. STOLL: Yes, absolutely.

9 MR. BAKKE: Okay. And then in relation to
10 the cellphone, the forensic protocol, am I correct in
11 understanding that since whatever lawyer received it
12 from Ms. Wilansky in Minneapolis, that it's not been
13 powered on since then?

14 MR. STOLL: Correct. I, you have me on the
15 record here, so I want to be a little careful, my memory
16 is that we had Sophia or Sophia's father send that phone
17 directly to Dr. Buck. I don't think any lawyer ever
18 touched it between when it was sent and when it got to
19 Dr. Buck, but I can confirm that if you want.

20 MR. BAKKE: Okay. Yeah. I mean, I just, as
21 you probably know, if you power it on and it doesn't
22 connect to a, a cell tower or if the battery is dead and
23 you try to power it on, you can lose everything on the,
24 the cellphone.

25 MR. STOLL: Yeah. And, you know, I'm not

1 going to put myself out there as a technology expert,
2 but, roughly, what I think our, like cellphone forensic
3 technology guy is proposing to do is to power it on in
4 some, in, in sort of, like a safe mode. You have to, I
5 guess, do a bunch off special button touches to get it
6 on in its non-normal boot mode, and, also, to do that
7 in, like something called a faraday bag that prevents
8 the phone from contacting a cell tower, and that allows
9 him to be able to image the phone without either, A,
10 connecting to a cell tower, or, B, even, like the phone
11 really knowing that it was on.

12 MR. BAKKE: That sounds generally consistent
13 with what I understand as well.

14 MR. STOLL: Okay.

15 MR. BAKKE: Okay. Then the other topic is,
16 you referred to some law enforcement munitions, or Ms.
17 Wilansky does in her Answer to Request No. 8, and you
18 say we can inspect that at a time and place agreeable to
19 both parties after we've agreed to an inspect protocol.
20 Before doing that, is that, is that Dr. Buck as well?

21 MR. STOLL: Correct. Dr. Buck has that
22 stuff.

23 MR. BAKKE: Yeah. So, you know, before we
24 decide where to go with that and what we might need to
25 do, can you send us some photographs of those munitions

1 so we can see what's there?

2 MR. STOLL: Yes.

3 MR. BAKKE: Okay.

4 MR. STOLL: I can do that.

5 MR. BAKKE: Do you know, generally, what it
6 consists of?

7 MR. STOLL: Yeah. I, I think, generally, my
8 guess is that there's, like somewhere between a dozen
9 and two dozen, like spent munitions. I think it's, like
10 there's some impact munitions, you know, those, like
11 blue-tipped rubber bullets. I think there's some bean
12 bag fragments. I think there's some CF canister
13 fragments and maybe, like some other sort of, like bits
14 and pieces that are harder to identify, or that don't
15 immediately jump out to me as being obvious what they
16 came from.

17 MR. BAKKE: Okay. But not, not anything
18 that's purported to be or believed to be from a
19 flash-bang?

20 MR. STOLL: I would say that, at this point,
21 I don't have any reason to believe that any of the stuff
22 she has came from a flash-bang or a Stinger ball
23 grenade.

24 MR. BAKKE: Okay.

25 MR. STOLL: Or anything that has a light

1 sound diversionary aspect to it.

2 MR. BAKKE: Okay.

3 MR. STOLL: Tested, we haven't tested the
4 stuff but I'm eyeballing it. That's my current belief.

5 MR. BAKKE: Okay. That's, that's helpful.
6 Okay. Okay. That's, that's all I had before we close
7 out the record unless you had something else, Ben, or,
8 or Lauren.

9 MR. STOLL: Nope. That's all I had.

10 MR. BAKKE: Okay. Thank you.

11 (This deposition was concluded at 7:08 p.m.)
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NOTARY REPORTERS CERTIFICATE

STATE OF MINNESOTA

I, JESSE LEE ANDERS, a Notary Public, within and for the County of Clay and State of MINNESOTA did hereby certify: That the afore-named witness was by me sworn to testify the truth, the whole truth and nothing but the truth.

That the foregoing two hundred and eight (208) pages contain an accurate transcription of my shorthand notes then and there taken.

I further certify that I am neither related to any of the parties or counsel, nor interested in this matter directly or indirectly.

WITNESS my hand and seal this 1st day of March, 2021.

JESSE L. ANDERS
NOTARY PUBLIC



THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO THE PRODUCTION OF THE SAME BY ANY MEANS, UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING STENOGRAPHER.

My commission expires: Jan 31, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

SOPHIA WILANSKY,

Plaintiff,

vs.

Civil No.
1:18-cv-00236-CSM

MORTON COUNTY, NORTH DAKOTA;
"JOHN DOE" law enforcement officer)
in his personal capacity; KYLE
KIRCHMEIER; in his personal and
official capacities; PAUL LANEY,
in his personal capacity; and
THOMAS IVERSON, in his personal
capacity,

Defendants.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript of
my Deposition or the same has been read to me, and
the same is true and accurate, save and
except for changes and/or corrections, if
any, as indicated by me on the
ERRATA SHEET hereof, with the understanding
that I offer these changes as if still under
oath.

Signed on the _____ day of

_____, 20____

SOPHIA WILANSKY

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